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# PENAL CODE

OF THE

# STATE OF NEW YORK

AS

AMENDED TO, AND INCLUDING, 1894.

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WITH REFERENCES TO DECISIONS

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NINTH EDITION.

BY

C. D. RUST,

COUNSELLOR AT LAW.

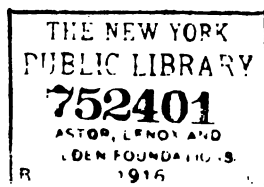
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## STATE OF NEW YORK.

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CHAP. 676.

### AN ACT TO ESTABLISH A PENAL CODE.

Passed July 26, 1881 ; three-fifths being present.

*The people of the State of New York, represented in Senate  
and Assembly, do enact as follows :*

#### PRELIMINARY PROVISIONS.

- SECTION**
1. Title of Code.
  2. Its effect.
  3. Definition of "crime."
  4. Divisions of crimes.
  5. Definition of felony.
  6. Definition of misdemeanor.
  7. Objects of the Penal Code.
  8. Prosecution and conviction.
  9. Conviction must precede punishment.
  10. Jury to find degree of crime.
  11. General rules of construction of this act.
  12. Of sections declaring crimes punishable.
  13. Punishments, how determined.
  14. Punishment of felonies when not fixed by statute.
  15. Id. ; of misdemeanor.

**SECTION 1. Title of Code.** This act shall be known as the **PENAL CODE OF THE STATE OF NEW YORK.**

**§ 2. Its effect.** No act or omission begun after the beginning of the day on which this Code takes effect as a law, shall be deemed criminal or punishable, except as prescribed or authorized by this Code, or by some statute of this state not repealed by it. Any act or

omission begun prior to that day may be inquired of, prosecuted and punished in the same manner as if this Code had not been passed.

**§ 3. Definition of "crime."** A crime is an act or omission forbidden by law, and punishable upon conviction by

1. Death ; or
2. Imprisonment ; or
3. Fine ; or
4. Removal from office ; or
5. Disqualification to hold any office of trust, honor, or profit under the state ; or
6. Other penal discipline.

3 R. S. 995, § 54.

**§ 4. Division of crime.** A crime is either

1. A felony ; or
2. A misdemeanor.

**§ 5. Definition of felony.** A felony is a crime which is or may be punishable by either

1. Death ; or
2. Imprisonment in a state prison.

3 R. S. 995, § 51.

**§ 6. Definition of misdemeanor.** Any other crime is a misdemeanor.

**§ 7. Objects of the Penal Code.** This Code specifies the classes of persons who are deemed capable of crimes, and liable to punishment therefor ; defines the nature of the various crimes ; and prescribes the kind and measure of punishment to be inflicted for each.

**§ 8. Prosecution and conviction.** The manner of prosecuting and convicting criminals is regulated by the Code of Criminal Procedure.

**§ 9. Conviction must precede punishment.** The punishments prescribed by this Code can be inflicted only upon a legal conviction in a court having jurisdiction.

**§ 10. Jury to find a degree of crime.** Whenever a crime is distinguished into degrees, the jury, if they convict the prisoner, must find the degree of the crime of which he is guilty.

3 R. S. 995, § 48.

**§ 11. General rules of the construction of this act.** The rule that a penal statute is to be strictly construed does not apply to this Code or any of the provisions thereof, but all such provisions must be construed according to the fair import of their terms, to promote justice and effect the objects of the law.

**§ 12. [am'd 1893.] Of sections declaring crimes punishable.** The several sections of this code which declare certain crimes to be punishable as therein mentioned devolve a duty upon the court author-



ized to pass sentence to determine and impose the punishment prescribed; but such court may in its discretion suspend sentence, during the good behavior of the person convicted, where the maximum term of imprisonment prescribed by law does not exceed ten years and such person has never before been convicted of a felony.

§ 13. [*am'd 1892.*] **Punishments, how determined.** Whenever in this Code the punishment for a crime is left undetermined between certain limits, the punishment to be inflicted in a particular case must be determined by the court authorized to pass sentence, within such limits as may be prescribed by this Code. In all cases where a corporation is convicted of an offense for the commission of which a natural person would be punishable with imprisonment, as for a felony, such corporation is punishable by a fine of not more than five thousand dollars.

§ 14. **Punishment of felonies when not fixed by statute.** A person convicted of a crime declared to be a felony for which no other punishment is specially prescribed by this Code, or by any other statutory provision in force at the time of the conviction and sentence, is punishable by imprisonment for not more than seven years, or by a fine of not more than one thousand dollars, or by both.

§ 15. **Of misdemeanors.** A person convicted of a crime declared to be a misdemeanor for which no other punishment is specially prescribed by this Code, or by any other statutory provision in force at the time of the conviction and sentence, is punishable by imprisonment in a penitentiary, or county jail, for not more than one year, or by a fine of not more than \$500, or by both.

3 R. S., 963, § 103. See § 703.

## TITLE I.

### PERSONS PUNISHABLE FOR CRIME.

- SECTION**
16. What persons are punishable criminally.
  17. Presumption of responsibility in general.
  18. Same, as to child under seven years.
  19. Same, as to child of seven years or more.
  20. Irresponsibility, etc., of idiot, lunatic, etc.
  21. Same.
  22. Intoxicated persons.
  23. Morbid criminal propensity.
  24. Rule as to married women.
  25. Rule as to persons acting under threats, etc.
  26. Same, when act done in defense of self or another.
  27. Exemption of public ministers.

§ 16. **What persons are punishable criminally.** The following persons are liable to punishment within the state :

1. A person who commits within the state any crime, in whole or in part ;
2. A person who commits without the state any offense which, if committed within the state, would be larceny under the laws of the state, and is afterwards found, with any of the property stolen or feloniously appropriated within this state ;

3. A person who, being without the state, causes, procures, aids, or abets another to commit a crime within the state:

4. Any person who, being out of this state, abducts or kidnaps by force or fraud, any person contrary to the laws of the place where such act is committed, and brings, sends or conveys such person within the limits of this state, and is afterwards found therein.

5. A person who, being out of the state and with intent to cause within it a result contrary to the laws of this state does an act which in its natural and usual course results in an act or effect contrary to its laws.

§ 17. **Presumption of responsibility in general.** A person is presumed to be responsible for his acts. The burden of proving that he is irresponsible is upon the accused person, except as otherwise prescribed in this Code.

§ 18. **Same, as to child under seven years.** A child under the age of seven years is not capable of committing crime.

§ 19. [*am'd 1888.*] **Presumption of responsibility in general as to child of seven years or more.** A child of the age of seven years, and under the age of twelve years, is presumed to be incapable of crime, but the presumption may be removed by proof that he had sufficient capacity to understand the act or neglect charged against him and to know its wrongfulness. Whenever in any legal proceedings it becomes necessary to determine the age of a child, the child may be produced for personal inspection, to enable the magistrate, court, or jury, to determine the age thereby; and the court or magistrate may direct an examination by one or more physicians, whose opinion shall also be competent evidence upon the question of age. A copy of the record of baptism of any child in any parish register, or register kept in a church, or by a clergyman thereof, or a certificate of baptism duly authenticated by the person in charge of such register, or who administered said baptism, and also a transcript of the record of birth recorded in any bureau of vital statistics or board of health, duly authenticated by its secretary or under its seal, and the entries made in a family Bible, shall also be competent evidence upon the question of the age.

§ 20. **Irresponsibility, etc., of idiot, lunatic, etc.** An act done by a person who is an idiot, imbecile, lunatic or insane, is not a crime. A person cannot be tried, sentenced to any punishment, or punished for a crime, while he is in a state of idiocy, imbecility, lunacy or insanity, so as to be incapable of understanding the proceeding or making his defense.

§ 21. **Same.** A person is not excused from criminal liability as an idiot, imbecile, lunatic, or insane person, except upon proof that, at the time of committing the alleged criminal act, he was laboring under such a defect of reason as either

1. Not to know the nature and quality of the act he was doing; or
2. Not to know that the act was wrong.

§ 22. **Intoxicated persons.** No act committed by a person while in a state of voluntary intoxication, shall be deemed less criminal by reason of his having been in such condition. But whenever the actual existence of any particular purpose, motive or intent is a

necessary element to constitute a particular species or degree of crime, the jury may take into consideration the fact that the accused was intoxicated at the time, in determining the purpose, motive or intent with which he committed the act.

§ 23. **Morbid criminal propensity.** A morbid propensity to commit prohibited acts, existing in the mind of a person who is not shown to have been incapable of knowing the wrongfulness of such acts, forms no defense to a prosecution therefor.

§ 24. **Rule as to married women.** It is not a defense, to a married woman charged with crime, that the alleged criminal act was committed by her in the presence of her husband.

§ 25. **Rule as to persons acting under threats, etc.** Where a crime is committed or participated in by two or more persons, and is committed, aided, or participated in by any one of them, only because during the time of its commission, he is compelled to do, or to aid or participate in the act, by threats of another person engaged in the act or omission, and reasonable apprehension on his part of instant death or grievous bodily harm, in case he refuses, the threats and apprehension constitute duress, and excuse him.

§ 26. **Rule when act done in defense of self or another.** An act, otherwise criminal, is justifiable when it is done to protect the person committing it, or another whom he is bound to protect, from inevitable and irreparable personal injury, and the injury could only be prevented by the act, nothing more being done than is necessary to prevent the injury.

§ 27. **Exemption of public ministers.** Ambassadors and other public ministers from foreign governments, accredited to the president or government of the United States, and recognized according to the laws of the United States, with their secretaries, messengers, families and servants, are not liable to punishment in this state, but are to be returned to their own country for trial and punishment.

## TITLE II.

### OF PARTIES TO CRIMES.

SECTION 28. Principal and accessory.

29. Definition of principal.

30. Definition of accessory.

31. All principals in misdemeanors.

32. Punishment of accessories.

33. Same

§ 28. **Principal and accessory.** A party to a crime is, either

1. A principal ; or,

2. An accessory.

**§ 29. Definition of principal.** A person concerned in the commission of a crime, whether he directly commits the act constituting the offense, or aids and abets in its commission, and whether present or absent, and a person who directly or indirectly counsels, commands, induces or procures another to commit a crime, is a principal.

**§ 30. Definition of accessory.** A person who, after the commission of a felony, harbors, conceals, or aids the offender, with intent that he may avoid or escape from arrest, trial, conviction, or punishment, having knowledge or reasonable ground to believe that such offender is liable to arrest, has been arrested, is indicted or convicted, or has committed a felony, is an accessory to the felony.

3 R. S. 989, § 7.

**§ 31. All principals in misdemeanors.** A person who commits or participates in an act which would make him an accessory if the crime committed were a felony, is a principal and may be indicted and punished as such if the crime be a misdemeanor.

See § 682, *post*.

**§ 32. Punishment of accessories.** An accessory to a felony may be indicted, tried, and convicted, either in the county where he became an accessory, or in the county where the principal felony was committed, and whether the principal felon has or has not been previously convicted, or is or is not amenable to justice, and although the principal has been pardoned or otherwise discharged after conviction.

**§ 33. Same.** Except in a case where a different punishment is specially prescribed by law, a person convicted as an accessory to a felony is punishable by imprisonment for not more than five years, or by a fine of not more than five hundred dollars, or by both.

### TITLE III.

#### DEGREES IN THE COMMISSION OF CRIMES AND ATTEMPTS TO COMMIT CRIMES.

**SECTION 34.** What is an attempt to commit a crime.

35. Prisoner indicted may be convicted of lesser crime, or attempt.

36. Acquittal or conviction bars indictment for another degree, or attempt.

**§ 34. What is an attempt to commit a crime.** An act, done with intent to commit a crime, and tending but failing to effect its commission, is an attempt to commit that crime.

**§ 35. Prisoner indicted may be convicted of lesser crime, or attempt.** Upon the trial of an indictment, the prisoner may be convicted of the crime charged therein, or of a lesser degree of the same

crime, or of an attempt to commit the crime so charged, or of an attempt to commit a lesser degree of the same crime.

§ 36. Acquittal or conviction bars indictment for another degree, attempt. Where a prisoner is acquitted or convicted, upon an indictment for a crime consisting of different degrees, he cannot thereafter be indicted or tried for the same crime, in any other degree, nor for an attempt to commit the crime so charged, or any degree thereof.

## TITLE IV.

### TREASON.

SECTION 37. Treason against the state defined.

38. Id., how punished.

39. Levying war defined.

40. Resistance to a statute when levying war.

§ 37. Treason against the state defined. Treason against the people of the state consists in

1. Levying war against the people of the state, within this state ; or

2. A combination of two or more persons by force to usurp the government of the state, or to overturn the same, shown by a forcible attempt, made within the state, to accomplish that purpose ; or

3. Adhering to the enemies of the state, while separately engaged in war with a foreign enemy, in a case prescribed in the constitution of the United States, or giving to such enemies aid and comfort within the state or elsewhere.

2 R. S. 928, § 2.

§ 38. Id., how punished. Treason is punishable by death.

3 R. S. 928, § 1.

§ 39. Levying war defined. To constitute levying war against the people of this state, an actual act of war must be committed. To conspire to levy war is not enough.

§ 40. Resistance to a statute when levying war. Where persons rise in insurrection with intent to prevent in general by force and intimidation, the execution of a statute of this state, or to force its repeal, they are guilty of levying war. But an endeavor, although by numbers and force of arms, to resist the execution of a law in a single instance, and for a private purpose, is not levying war.

## TITLE V.

## OF CRIMES AGAINST THE ELECTIVE FRANCHISE.

**SECTION 41. Misdemeanors at political caucuses and conventions.**

- 41a. False registration.
- 41b. Mutilation, destruction or loss of registry list.
- 41c. Misconduct of registry officers.
- 41d. Failure of house-dweller to answer inquiries.
- 41e. Removal, mutilation or destruction of election supplies, poll-lists or cards of instruction.
- 41f. Refusal to permit employes to attend election.
- 41g. Misconduct in relation to certificates of nomination and official ballots.
- 41h. Failure to deliver official ballots.
- 41i. Misconduct of election officers and watchers.
- 41j. Violation of election law by public officer.
- 41k. Misdemeanors in relation to elections.
- 41l. Voting after conviction of infamous crime.
- 41m. Voting by inhabitant of another state or country.
- 41n. False returns.
- 41o. Furnishing money or entertainment to induce attendance at polls.
- 41p. Giving considerations for franchise.
- 41q. Receiving consideration for franchise.
- 41r. Testimony upon prosecution.
- 41s. Bribery or intimidation of elector in military service of United States.
- 41t. Duress and intimidation of voters.
- 41u. Political assessments.
- 41v. Corrupt use of position or authority.
- 41w. Failure to file candidate's statement of expenses.
- 41x. Procuring fraudulent certificates in order to vote.
- 41y. Presenting fraudulent certificates to registry boards.

§ 41. [*am'd* 1890, 1892.] **Misdemeanors at political caucuses and conventions.** Any person who,

1. Votes or attempts to vote at a political caucus or convention without being entitled to do so; or

2. By bribery, menace or other corrupt means, directly or indirectly, attempts to influence the vote of any person entitled to vote at such caucus or convention, or obstructs such person in voting, or prevents him from voting thereat; or

3. Fraudulently and wrongfully does any act tending to affect the result of an election at such caucus or convention; or

4. Being an officer, teller or canvasser thereof, willfully omits, refuses or neglects to do any act required by the election law, or refuses to permit any person to do any act authorized thereby, or makes or attempts to make any false canvass of the ballots cast at such caucus or convention, or statement of the result of a canvass of the ballots cast thereat; or

5. Induces or attempts to induce any officer, teller or canvasser of such caucus or convention to do any act in violation of his duty,  
*Is guilty of a misdemeanor.*

§ 41a. [added 1890, am'd 1892.] **False registration.** Any person who causes his name to be placed upon any list or register of voters in more than one election district for the same election, or upon a list or register of voters, knowing that he will not be a qualified voter in the district at the election for which such list or register is made, or aids or abets any such act, is punishable by imprisonment for not more than five years.

§ 41b. [added 1890, am'd 1892.] **Mutilation, destruction or loss of registry list.** Any person who willfully loses, destroys or mutilates the list or register of voters in any election district, or a certified copy thereof, after the making of the same and before the closing of the polls of the election for which the same is made, is guilty of a misdemeanor.

§ 41c. [am'd 1893.] **Misconduct of registry officers.** Any member or clerk of a registry board who willfully violates any provision of the election law relative to registration of electors or willfully neglects or refuses to perform any duty imposed on him by law, or is guilty of any fraud in the execution of the duties of his office, shall be punishable by imprisonment for not less than two and not more than ten years.

§ 41d. [added 1890, am'd 1892.] **Failure of house-dweller to answer inquiries.** Any person dwelling in a building in a city who willfully refuses to truly answer any question asked by any elector of such city, between the first meeting of the boards of registry therein for any election and the closing of the polls of such election, relating to the residence and qualifications as a voter of any person dwelling in such building, or of any person who appears upon the list or register of voters made by a board of registry as residing at such building, is guilty of a misdemeanor.

§ 41e. [added 1890, am'd 1892.] **Removal, mutilation or destruction of election supplies, poll-lists or cards of instruction.** Any person who,

1. During an election or town meeting, wilfully defaces or injures a voting booth or compartment, or wilfully removes or destroys any of the supplies or other conveniences placed in the voting booths or compartments in pursuance of law; or

2. Before the closing of the polls, wilfully defaces or destroys any list of candidates to be voted for at such election or town meeting posted in accordance with the election law; or

3. During an election or town meeting, wilfully removes or defaces the cards, for the instruction of voters, posted in accordance with the election law, is guilty of a misdemeanor.

§ 41f. [added 1890, am'd 1892.] **Refusal to permit employes to attend election.** A person or corporation who refuses to an employe entitled to vote at an election or town meeting, the privilege of attending thereat, as provided by the election law, or subjects such employe to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor.

§ 41g. [added 1890, am'd 1892.] **Misconduct in relation to certificates of nomination and official ballots.** A person who,

1. *Falsely makes or makes oath to, or fraudulently defaces or destroys, a certificate of nomination, or any part thereof; or*

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2. Files or receives for filing a certificate of nomination, knowing that any part thereof was falsely made; or

3. Suppresses a certificate of nomination which has been duly filed, or any part thereof; or

4. Forges or falsely makes the official indorsement of any ballot; or

5. Having charge of official ballots, destroys, conceals or suppresses them, except as provided by law,

Is punishable by imprisonment for not less than one nor more than five years.

§ 41h. [added 1892.] **Failure to deliver official ballots.** Any person who has undertaken to deliver official ballots to any city, town or village clerk, or inspector, as authorized by the election law, and neglects or refuses to do so, is guilty of a misdemeanor.

§ 41i. [added 1892.] **Misconduct of election officers and watchers.** Any election officer or watcher who,

1. Reveals to another person the name of any candidate for whom a voter has voted; or

2. Communicates to another person his opinion, belief or impression as to how or for whom a voter has voted; or

3. Places a mark upon a ballot, or does any other act by which one ballot can be distinguished from another, or can be identified; or,

4. Before the closing of the polls, unfolds a ballot which a voter has prepared for voting, is punishable by imprisonment for not less than six months nor more than one year.

§ 41j. [added 1892.] **Violation of election law by public officer.** A public officer who omits, refuses or neglects to perform any act required of him by the election law, or refuses to permit the doing of any act authorized thereby, is, if not otherwise provided by law, punishable by imprisonment for not more than three years, or by a fine of not more than three thousand dollars, or both.

§ 41k. [added 1892, and 1894.] **Misdemeanors in relation to elections.**—Any person who:

1. Acts as an inspector of election, poll clerk or ballot clerk, without being able to read and write the English language, or without being otherwise qualified to hold such office; or,

2. Being an inspector of election, knowingly and wilfully permits or suffers any person to vote who is not entitled to vote thereat; or,

3. Wilfully and unlawfully obstructs, hinders or delays, or aids or assists in obstructing or delaying any elector on his way to a registration or polling place, or while he is attempting to register or vote; or,

4. Electioneers, on election day, within a polling place, or in a public street or room, or in any public manner, within one hundred and fifty feet of a polling place; or,

5. Removes any official ballot from a polling place before the closing of the polls; or,

6. Unlawfully goes within the guard-rail of any polling place or unlawfully remains within such guard-rail after having been commanded to remove therefrom by any inspector of election; or,



7. Enters a voting booth with any voter or remains in a voting booth while it is occupied by any voter, or opens the door of a voting booth when the same is occupied by a voter, with the intent to watch such voter while engaged in the preparation of his ballot, except as authorized by the election law; or,

8. Being or claiming to be a voter, permits any other person to be in a voting booth with him while engaged in the preparation of his ballot, except as authorized by the election law, without openly protesting against and asking that such person be ejected; or;

9. Having lawfully entered a voting booth with a voter, requests, persuades or induces such voter to vote any particular ballot or for any particular candidate, or, directly or indirectly, reveals to another the name of any candidate voted for by such voter, or anything occurring within such voting booth; or,

10. Shows his ballot after it is prepared for voting, to any person so as to reveal the contents, or solicits a voter to show the same; or,

11. Places any mark upon his ballot, or does any other act in connection with his ballot with the intent that it may be identified as the one voted by him; or,

12. Places any mark upon, or does any other act in connection with, a ballot or paster ballot, with the intent that it may afterward be identified as having been voted by any particular person; or,

13. Receives an official ballot from any person other than one of the ballot clerks having charge of the ballots; or,

14. Not being a ballot clerk, delivers an official ballot to a voter; or,

15. Not being an inspector of election, receives from any voter a ballot prepared for voting; or,

16. Fails to return to the ballot clerks, before leaving the polling place or going outside the guard-rail, each ballot not voted by him; or,

17. Wilfully disobeys any lawful command of the board of inspectors, or any member thereof, is guilty of a misdemeanor. This section shall apply to general and special elections, municipal elections and town meetings, but nothing therein shall prevent any person from receiving or delivering an unofficial sample ballot, or from receiving, delivering and voting an unofficial ballot as authorized by the election law.

§ 411. [added 1892.] **Voting after conviction of infamous crime.** Any person who has been convicted of an infamous crime and has been sentenced or committed therefor to a state prison or penitentiary, who votes at any election unless he shall have been pardoned and restored to all the rights of a citizen, is guilty of a misdemeanor.

§ 41m. [added 1892, and 1894]. **Illegal voting.** Any person who,  
1. Knowingly votes or offers to vote at any election or town meeting when not qualified; or,

2. Procures, aids, assists, counsels or advises any person to go or come into any town, ward or election district, for the purpose of voting at any election or town meeting knowing that such person is not qualified; or,

3. Votes or offers to vote at an election or town meeting more than once; or votes or offers to vote at an election or town meeting *under any other name than his own*; or votes or offers to vote at an *election or town meeting in an election district or place where he does not reside*; or,

4. Procures, aids, assists, commands or advises another to vote or offer to vote at an election or town meeting knowing that such person is not qualified to vote thereat; or,

5. Being an inhabitant of another state or country, votes or offers to vote at an election or town meeting in this state, is guilty of felony, punishable by imprisonment in a state prison not less than two, nor more than five years.

**§ 41n. [added 1892] False returns.** An inspector or poll clerk of an election or town meeting, who intentionally makes, or attempts to make, a false canvass of the ballots cast thereat, or any false statement of the result of a canvass, though not signed by a majority of the inspectors, or any person who induces or attempts to induce any such inspector or clerk so to do, is guilty of a felony.

**§ 41o. [added 1892] Furnishing money or entertainment to induce attendance at polls.** Any person, who, with the intent to promote the election of a person to an elective office :

1. Furnishes entertainment to the electors before or during an election or town meeting at which such person is a candidate ; or

2. Pays for, procures, or engages to pay for such entertainment ; or

3. Furnishes money or other property, or engages to compensate any person for procuring the attendance of voters at the polls of such election or town meeting ; or

4. Contributes money for any other purpose than the printing and circulating of handbills, books and other papers previous to an election or town meeting, or conveying such poor or infirm electors to the polls, is guilty of a misdemeanor.

**§ 41p. [added 1892, and 1894.] Giving consideration for franchise.** Any person who directly or indirectly, by himself or through any other person :

1. Pays, lends or contributes, or offers or promises to pay, lend or contribute any money or other valuable consideration to or for any voter, or to or for any other person, to induce such voter to vote or refrain from voting at any election, or to induce any voter to vote or refrain from voting at such election for any particular person or persons, or for or against any particular proposition submitted to voters, or to induce such voter to come to the polls or remain away from the polls at such election, or to induce such voter to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters, or on account of such voter having voted or refrained from voting, or having voted or refrained from voting for or against any particular person, or for or against any proposition submitted to voters, or having come to the polls or remained away from the polls at such election, or having placed or caused to be placed or refrained from placing or causing to be placed his name upon the registry of voters; or,

2. Gives, offers or promises any office, place or employment, or promises to procure or endeavor to procure any office, place or employment to or for any voter, or to or for any other person, in order to induce such voter to vote or refrain from voting at any election, or to induce any voter to vote or refrain from voting at such election, for or against any particular person or persons, or for or against any proposition submitted to voters, or to induce any voter to place or cause to be placed or refrain from placing or causing to be placed his name upon a registry of voters ; or,

3. Gives, offers, or promises any office, place, employment or valuable thing as an inducement for any voter or other person to procure or aid in procuring either a large or a small vote, plurality or majority at any election district, or other political division of the state, for a candidate or candidates to be voted for at an election; or to cause a larger or smaller vote, plurality or majority to be cast or given for any candidate or candidates in one such district or political division than in another; or,

4. Makes any gift, loan, promise, offer, procurement or agreement as aforesaid to, for or with any person to induce such person to procure or endeavor to procure the election of any person or the vote of any voter at any election; or,

5. Procures or engages, or promises or endeavors to procure, in consequence of any such gift, loan, offer, promise, procurement or agreement, the election of any person, or the vote of any voter, at such election; or,

6. Advances or pays, or causes to be paid, any money or other valuable thing, to or for the use of any other person with the intent that the same, or any part thereof, shall be used in bribery at any election, or knowingly pays or causes to be paid any money or other valuable thing to any person in discharge or repayment of any money, wholly or in part expended in bribery at any election, is guilty of an infamous crime punishable by imprisonment for not less than three months nor more than one year, and in addition forfeits any office to which he may have been elected at the election with reference to which such offense was committed, and becomes incapable of holding any public office under the constitution and laws of this state for a period of five years after such conviction.

§ 41q. [added 1892, and 1894.] **Receiving consideration for franchise.** Any person who, directly or indirectly, by himself or through any other person:

1. Receives, agrees or contracts for, before or during an election, any money, gift, loan or other valuable consideration, office, place or employment for himself or any other person, for voting or agreeing to vote, or for coming or agreeing to come to the polls, or for remaining away or agreeing to remain away from the polls, or for refraining or agreeing to refrain from registering as a voter, or for refraining or agreeing to refrain from voting, or for voting or agreeing to vote, or for refraining or agreeing to refrain from voting for or against any particular person or persons at any election, or for or against any proposition submitted to voters at such election; or,

2. Receives any money or other valuable thing during or after an election on account of himself or any other person having voted or refrained from voting at such election, or having registered or refrained from registering as a voter, or on account of himself or any other person having voted or refrained from voting for or against any particular person at such election, or for or against any proposition submitted to voters at such election, or on account of himself or any other person having come to the polls or remained away from the polls at such election, or having registered or refrained from registering as a voter, or on account of having induced any person to vote or refrain from voting for or against any particular person or persons at such election, or for or against any proposition submitted to voters at such election, is guilty of an infamous crime, punishable by imprisonment for not less than three

months, nor more than one year, and in addition shall be excluded from the right of suffrage for five years after such conviction; and the county clerk of the county in which such person is convicted shall transmit a certified copy of the record of conviction to the clerk of each county of the state, within ten days thereafter, which copy shall be filed in his office by each of such clerks.

**§ 41r. [a'md 1893] Testimony upon prosecution.** A person offending against any provision of section forty-one-p or of section forty-one-q of this code is a competent witness against another person so offending, and may be compelled to attend and testify on any trial, hearing or proceeding, or investigation in the same manner as any other person. The testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person testifying. A person testifying shall not thereafter be liable to indictment, prosecution or punishment for the offence with reference to which his testimony was given, and may plead or prove the giving of testimony accordingly, in bar of such an indictment or prosecution.

**§ 41s. [added 1892] Bribery or intimidation of elector in military service of United States.** Any person who, directly or indirectly, by bribery, menace, or other corrupt means, controls or attempts to control an elector of this state enlisted in the military service of the United States, in the exercise of his rights under the election law, or annoys, injures or punishes him for the manner in which he exercises such right, is guilty of a misdemeanor for which he may be tried at any future time when he may be found within this state; and upon conviction thereof shall thereafter be ineligible to any office therein.

**§ 41t. [added 1892, and 1894.] Duress and intimidation of voters.** Any person or corporation who directly or indirectly:

1. Uses or threatens to use any force, violence or restraint, or inflicts or threatens to inflict any injury, damage, harm or loss, or in any other manner practices intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting at any election or to vote or refrain from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or to place or cause to be placed or refrain from placing or causing to be placed, his name upon a registry of voters, or on account of such person having voted or refrained from voting at such election, or having voted or refrained from voting for or against any particular person or persons, or for or against any proposition submitted to voters at such election, or having registered or refrained from registering as a voter; or

2. By abduction, duress or any forcible or fraudulent device or contrivance whatever impedes, prevents or otherwise interferes with the free exercise of the elective franchise by any voter, or compels, induces or prevails upon any voter to give or refrain from giving his vote for or against any particular person at any election; or

3. Being an employer pays his employes the salary or wages due in "pay envelopes," upon which there is written or printed any political motto, device or argument containing threats, express or implied, intended or calculated to influence the political opinions or actions of such employes, or within ninety days of a general election puts or otherwise exhibits in the establishment or place where his employes are engaged in labor, any handbill or placard containing any threat, notice or information, that if any particular

ticket or candidate is elected or defeated, work in his place or establishment will cease, in whole or in part, his establishment be closed up, or the wages of his employes reduced, or other threats, express or implied, intended or calculated to influence the political opinions or actions of his employes, is guilty of a misdemeanor, and if a corporation shall in addition forfeit its charter.

**§41u. [added 1894] Political Assessments.** Any two or more persons who conspire to promote or prevent the election of any person or persons to a public office by the use of any means which are prohibited by law, shall be punishable by imprisonment for not less than six months nor more than one year; provided any act besides such agreement be done to effect the object thereof by one or more of the parties to such conspiracy.

**§ 41v. [added 1892.] Political assessments.** Any person who,  
1. Being an officer or employe of the state, or of a political subdivision thereof, directly or indirectly uses his authority or official influence to compel or induce any other officer or employe of the state, or a political subdivision thereof, to pay or promise to pay any political assessments; or

2. Being an officer or employe of the state, or of a political subdivision thereof, directly or indirectly gives, pays or hands over to any other such officer or employe any money or other valuable thing on account of or to be applied to the promotion of his election, appointment or retention in office, or makes any promise, or gives any subscription to such officer or employe to pay or contribute any money or other valuable thing for any such purpose or object; or

3. Being such an officer or employe and having charge or control of any building, office or room occupied for any purpose of the state or of a political subdivision thereof, consents that any person enter the same for the purpose of making, collecting, receiving or giving notice of any political assessment; or

4. Enters or remains in any such office, building or room, or sends or directs any letter or other writing thereto, for the purpose of giving notice of demanding or collecting, or being therein, gives notice of, demands, collects or receives, any political assessment;

5. Prepares or makes out, or takes any part in preparing or making out, any political assessment, subscription or contribution, with the intent that the same shall be sent or presented to or collected of any such officer or employe; or

6. Sends or presents any political assessment, subscription, or contribution to, or requests its payment of, any such officer or employe, Is guilty of a misdemeanor.

**41w. [added 1892.] Corrupt use of position or authority.** Any person who,

1. While holding a public office, or being nominated or seeking a nomination or appointment therefor, corruptly uses or promises to use, directly or indirectly, any official authority or influence possessed or anticipated, in the way of conferring upon any person, or in order to secure, or aid any person in securing, any office or public employment, or any nomination, confirmation, promotion or increase of salary, upon consideration that the vote or political influence or action of the person so to be benefited, or of any other person, shall be given or used in behalf of any candidate, officer or party, or upon any other corrupt condition or consideration; or

2. Being a public officer or employe of the state or a political sub

division having, or claiming to have, any authority or influence affecting the nomination, public employment, confirmation, promotion, removal, or increase or decrease of salary of any public officer or employe, or promises or threatens to use any such authority or influence, directly or indirectly to affect the vote or political action of any such public officer or employe, or on account of the vote or political action of such officer or employe; or

3. Makes, tenders or offers to procure or cause any nomination or appointment for any public office or place, or accepts or requests any such nomination or appointment, upon the payment or contribution of any valuable consideration, or upon an understanding or promise thereof, or

4. Makes any gift, promise or contribution to any person, upon the condition or consideration of receiving an appointment or election to a public office or a position of public employment, or for receiving or retaining any such office or position, or promotion, privilege, increase of salary or compensation therein, or exemption from removal or discharge therefrom, is punishable by imprisonment for not more than two years or by a fine of not more than three thousand dollars or both.

**§ 41x [added 1892.] Failure to file candidate's statement of expenses.** Every candidate who is voted for at any public election held within this state shall, within ten days after such election, file as hereinafter provided an itemized statement showing in detail all the moneys contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Such statement shall give the names of the various persons who received such moneys, the specific nature of each item, and the purpose for which it was expended or contributed. There shall be attached to such statement an affidavit subscribed and sworn to by such candidate, setting forth in substance that the statement thus made is in all respects true, and that the same is a full and detailed statement of all moneys so contributed or expended by him, directly or indirectly, by himself or through any other person, in aid of his election. Candidates for offices to be filled by the electors of the entire state, or any division or district thereof greater than a county, shall file their statements in the office of secretary of state. The candidates for town, village and city offices, excepting in the city of New York, shall file their statements in the office of the town, village or city clerk, respectively, and in cities wherein there is no city clerk, with the clerk of the common council of the city wherein the election occurs. Candidates for all other offices, including all officers in the city and county of New York, shall file their statements in the office of the clerk of the county wherein the election occurs. Any candidate for office who refuses or neglects to file a statement as prescribed in this section shall be guilty of a misdemeanor, and shall also forfeit his office.

**§ 41x [added 1893]. Procuring fraudulent certificates in order to vote.** Any person who knowingly and willfully procures from any court, judge, clerk or other officer, a certificate of naturalization, which has been allowed, issued, signed or sealed in violation of the laws of the United States or of this state, with intent to enable himself or any other person to vote at any election when he or such person is not entitled by the laws of the United States to become a citizen or to exercise the elective franchise, is guilty of a felony.

§ 41y. [added 1893.] Presenting fraudulent certificates to registry boards to procure registration. A person who knowingly and willfully presents to any board of officers, for the purpose of having himself or any other person placed upon any list or registry of voters, or to any board of officers for the purpose of enabling himself or any other person to vote at any election, any certificate of naturalization which has been allowed or issued by or procured from any judicial officer, clerk of a court, or other ministerial officer of a court, by any false statement, oath or representation, or in violation of the laws of the United States or of this state, with intent to enable any person to vote at any election, when such person is not entitled by the laws of the United States to become a citizen, or of this state to exercise the elective franchise, is guilty of a felony.

## TITLE VI.

### OF CRIMES BY AND AGAINST THE EXECUTIVE POWER OF THE STATE

- SECTION 42.** Acting in a public office without having qualified.
- 43. Acts of officer *de facto*, not affected.
  - 44. Giving or offering bribes.
  - 45. Asking or receiving bribes.
  - 46. Attempting to prevent officers from performing duty.
  - 47. Resisting officers.
  - 48. Taking unlawful fees.
  - 48a. Comptroller not to be interested in tax sales.
  - 48b. Prison officers not to be interested in prison contracts.
  - 48c. Appraiser taking fee or reward.
  - 49. Taking reward for omitting or delaying official acts.
  - 50. Taking fees for services not rendered.
  - 51. Taking unlawful reward for services in extradition of fugitives.
  - 52. Corrupt bargain for appointments, etc.
  - 53. Same.
  - 54. Selling right to official powers.
  - 55. Such appointment avoided by conviction.
  - 56. Intrusion into public office.
  - 57. Offender refusing to surrender to successor.
  - 58. Administrative officers.

§ 42. [am'd 1893.] Acting in a public office without having qualified. A person who executes any of the functions of a public office without having taken and duly filed the required oath of office, or without having executed and duly filed the required security, is guilty of a misdemeanor, as prescribed by law.

§ 43. Acts of officer *de facto*. The last section must not be construed to affect the validity of acts done by a person exercising the functions of the public office in fact, where other persons than himself are interested in maintaining the validity of such acts.

**§ 44. Giving or offering bribes.** A person who gives or offers a bribe to any executive officer of this state with intent to influence him in respect to any act, decision, vote, opinion, or other proceeding as such officer, is punishable by imprisonment in a state prison not exceeding ten years, or by fine not exceeding five thousand dollars, or by both.

§ R. S. 957, § 9.

**§ 45. Asking or receiving bribes.** An executive officer, or person elected or appointed to an executive office, who asks, receives or agrees to receive any bribe, upon an agreement or understanding that his vote, opinion or action upon any matter then pending or which may by law be brought before him in his official capacity shall be influenced thereby, is punishable by imprisonment in a state prison not exceeding ten years, or by a fine not exceeding five thousand dollars, or by both; and in addition thereto forfeits his office and is forever disqualified from holding any public office under this state.

*Id.*, § 10.

**§ 46. Attempting to prevent officers from performing duty.** A person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon such officer by law, is guilty of a misdemeanor.

**§ 47. Resisting officers.** A person who knowingly resists, by the use of force or violence, any executive officer, in the performance of his duty, is guilty of a misdemeanor.

**§ 48. [am'd 1890.] Taking unlawful fees.**—A public officer or a deputy, clerk, assistant or other subordinate of a public officer, or any person appointed or employed by or in the office of a public officer, who shall, in any manner act for or in behalf of any such officer, who asks or receives, or consents or agrees to receive, any emolument, gratuity or reward, or any promise of emolument, gratuity or reward, or any money, property or thing of value or of personal advantage, except such as may be authorized by law for doing or omitting to do any official act, or for performing or omitting to perform, or for having performed or omitted to perform any act whatsoever directly or indirectly related to any matter in respect to which any duty or discretion is by or in pursuance of law imposed upon or vested in him, or may be exercised by him by virtue of his office, or appointment or employment or his actual relation to the matter, shall be guilty of a felony, punishable by imprisonment for not more than ten years or by a fine of not more than four thousand dollars, or both.

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**§ 48a. [added 1893]. Comptroller not to be interested in tax sales.** The comptroller, or any person employed in his office, who shall be directly or indirectly interested in any tax sale made by such comptroller, or in the title acquired by such sale, or in any money paid or to be paid for the redemption of any lands sold for taxes or on the cancellation of any tax sale; or any person who shall pay or give to the state comptroller, or to any employé in his office, any compensation, reward or promise thereof for any service or services performed or to be performed in regard to such sale, redemption, cancellation or such tax title, is guilty of a misdemeanor. A sale in violation of this section is void.

**§ 48b. [added 1893.] Prison officers not to be interested in prison contracts.** A superintendent of state prisons, or agent, warden or other officer, keeper or guard, employed at either of the prisons, who

1. Shall be directly or indirectly interested in any contract, purchase or sale, for, by, or on account of such prison; or

2. Accepts a present from a contractor or contractor's agent, directly or indirectly, or employs the labor of a convict or another person employed in such prison on any work for the private benefit of such superintendent, officer, keeper or guard, is guilty of a misdemeanor, except that the agent and warden shall be entitled to employ prisoners for necessary household service.

**§ 48c. [added 1893.] Appraiser taking fee or reward.** An appraiser appointed by virtue of the taxable transfers law, who takes any fee or reward from an executor, administrator, trustee, legatee, next of kin, or heir of any decedent, or from any other person liable to pay such tax, or any portion thereof, is guilty of a misdemeanor.

**§ 49. Taking reward for omitting or delaying official acts.** An executive officer who asks or receives any emolument, gratuity or reward, or any promise of any emolument, gratuity or reward, for omitting or deferring the performance of any official duty, is guilty of a misdemeanor.

**§ 50. Taking fees for services not rendered.** An executive officer who asks or receives any fee or compensation for any official service which has not been actually rendered, except in cases of charges for prospective costs, or of fees demandable in advance in the cases allowed by law, is guilty of a misdemeanor.

3 R. S. 923, §§ 6, 7.

**§ 51. Taking unlawful reward for services in extradition of fugitives.** An officer of this state who asks or receives any fee or compensation of any kind for any services rendered or expense incurred in procuring from the governor of this state a demand upon the executive authority of a state or territory of the United States, or of a foreign government, for the surrender of a fugitive from justice; or for any service rendered or expense incurred in procuring the surrender of such fugitive, or of conveying him to this state or for *detaining him therein*, except upon an employment by the governor of

this state, and upon an account duly audited and paid out of the state treasury, is guilty of a misdemeanor.

**§ 52. Corrupt bargain for appointments, etc.** A person who gives or offers to give, any gratuity or reward, in consideration that himself or any other person shall be appointed to a public office, or to a clerkship, deputation, or other subordinate position, in such an office, or shall be permitted to exercise, perform, or discharge any prerogatives or duties, or to receive any emoluments, of such an office, is guilty of a misdemeanor.

**§ 53. Same.** A person who acts or receives, or agrees to receive, any gratuity or reward, or any promise thereof, for appointing another person, or procuring for another person an appointment, to a public office or to a clerkship, deputation, or other subordinate position in such an office, is guilty of a misdemeanor. If the person so offending is a public officer, a conviction also forfeits his office.

**§ 54. Selling right to official powers.** A public officer who, for any reward, consideration or gratuity, paid, or agreed to be paid, directly or indirectly, grants to another the right or authority to discharge any functions of his office, or permits another to take appointments or perform any of its duties, is guilty of a misdemeanor, and a conviction for the same forfeits his office, and disqualifies him forever from holding any office whatever under this state.

**§ 55. Such appointment avoided by conviction.** A grant, appointment, or deputation, made contrary to the provisions of either of the last two sections, is avoided and annulled by a conviction for the violation of either of those sections, in respect to such grant, appointment or deputation; but any official act done before conviction, is unaffected by the conviction.

**§ 56. Intrusion into public office.** A person who willfully intrudes himself into a public office, to which he has not been duly elected or appointed, or who, having been an executive or administrative officer, willfully exercises any of the functions of his office, after his right so to do has ceased, is guilty of a misdemeanor.

**§ 57. Offender refusing to surrender to successor.** A person who, having been an executive or administrative officer, wrongfully refuses to surrender the official seal, or any books or papers, appertaining to his office, upon the demand of his lawful successor, is guilty of a misdemeanor.

**§ 58. Administrative officers.** The various provisions of this chapter which relate to executive officers apply to administrative officers, in the same manner as if administrative and executive officers were both mentioned.

## TITLE VII.

### OF CRIMES AGAINST THE LEGISLATIVE POWER.

**SECTION 59** *Preventing the meeting or organization of either branch of the legislature.*

- 60. Disturbing the legislature while in session.
- 61. Compelling adjournment.
- 62. Intimidating a member of the legislature.
- 63. Compelling either house to perform or omit any official act.
- 64. Altering draft of bill.
- 65. Altering engrossed copy.
- 66. Bribery of members of legislature.
- 67. Receiving bribes by members of legislature.
- 68. Witnesses refusing to attend before the legislature or legislative committees.
- 69. Refusing to testify.
- 70. Members of the legislature liable to forfeiture of office.

**§ 59. Preventing the meeting or organization of either branch of the legislature.** A person who willfully and by force or fraud prevents the legislature of this state, or either of the houses composing it, or any of the members thereof, from meeting or organizing, is punishable by imprisonment in a state prison not less than five years nor more than ten years, or by a fine of not less than \$500, nor more than \$2,000, or by both.

**§ 60. Disturbing the legislature while in session.** A person who willfully disturbs the legislature of this state, or either of the houses composing it, while in session, or who commits any disorderly conduct in the immediate view and presence of either house of the legislature, tending to interrupt its proceedings or impair the respect due to its authority, is guilty of a misdemeanor.

**§ 61. Compelling adjournment.** A person who willfully and by force or fraud compels or attempts to compel the legislature of this state, or either of the houses composing it, to adjourn or disperse, is punishable by imprisonment in a state prison not less than five nor more than ten years, or by a fine of not less than \$500, nor more than \$2,000, or by both.

**§ 62. Intimidating a member of the legislature.** A person who willfully, by intimidation or otherwise, prevents any member of the legislature of this state, from attending any session of the house of which he is a member, or of any committee thereof, or from giving his vote upon any question which may come before such house, or from performing any other official act, is guilty of a misdemeanor.

**§ 63. Compelling either house to perform or omit any official act.** A person who willfully compels or attempts to compel either of the houses composing the legislature of this state to pass, amend, or reject any bill, or resolution, or to grant or refuse any petition, or to perform or omit to perform any other official act, is punishable by imprisonment in a state prison not less than five nor more than ten years, or by a fine of not less than \$500 nor more than \$2,000, or by both.

**§ 64. Altering draft of bill.** A person who fraudulently alters

the draft of any bill or resolution which has been presented to either of the houses composing the legislature, to be passed or adopted, with intent to procure it to be passed or adopted by either house, or certified by the presiding officer of either house, in language different from that intended by such house, is guilty of felony.

**§ 65. Altering engrossed copy.** A person who fraudulently alters the engrossed copy or enrollment of any bill which has been passed by the legislature of this state, with intent to procure it to be approved by the governor or certified by the secretary of state, or printed or published by the printer of the statutes in language different from that in which it was passed by the legislature, is guilty of felony.

**§ 66. Bribery of members of the legislature.** A person who gives or offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a member of the legislature, or attempts, directly or indirectly, by menace, deceit, suppression of truth, or other corrupt means, to influence a member to give or withhold his vote, or to absent himself from the house of which he is a member, or from any committee thereof, is punishable by imprisonment for not more than ten years, or by a fine of not more than five thousand dollars, or both.

**§ 67. Receiving bribes by members of legislature.** A member of either of the houses composing the legislature of this state, who asks, receives, or agrees to receive any bribe upon any understanding that his official vote, opinion, judgment or action shall be influenced thereby, or shall be given in any particular manner, or upon any particular side of any question or matter upon which he may be required to act in his official capacity, or who gives or offers or promises to give any official vote in consideration that another member of the legislature shall give any such vote, either upon the same or another question, is punishable by imprisonment in a state prison not exceeding ten years, or by fine not exceeding five thousand dollars, or both.

**§ 68. Witnesses refusing to attend before the legislature or legislative committees.** A person who, being duly summoned to attend as a witness before either house of the legislature or any committee thereof, authorized to summon witnesses, refuses or neglects without lawful excuse to attend pursuant to such summons, is guilty of a misdemeanor.

**§ 69. Refusing to testify.** A person who being present before either house of the legislature or any committee thereof authorized to summon witnesses, willfully refuses to be sworn or affirmed, or to answer any material and proper question, or to produce upon reasonable notice any material and proper books, papers, or documents in his possession or under his control, is guilty of a misdemeanor.

**§ 70. Members of the legislature liable to forfeiture of office** The conviction of a member of the legislature of either of the crimes defined in this chapter, involves as a consequence in addition to the punishment prescribed by this Code, a forfeiture of his office; and disqualifies him from ever afterwards holding any office under this state.

3 R. S. 957, § 10.

## TITLE VIII.

### OF CRIMES AGAINST PUBLIC JUSTICE.

- CHAPTER**
- I.** Bribery and corruption.
  - II.** Rescues.
  - III.** Escape and aiding therein.
  - IV.** Forging, stealing, mutilating and falsifying judicial and public records and documents.
  - V.** Perjury and subordination of perjury.
  - VI.** Falsifying evidence.
  - VII.** Other offenses against public justice.
  - VIII.** Conspiracy.

## CHAPTER I.

### BRIBERY AND CORRUPTION.

- SECTION**
- 71.** Bribery of a judicial officer.
  - 72.** Officer accepting bribe.
  - 73.** Juror, etc., promising verdict.
  - 74.** Jury, etc., accepting bribes.
  - 75.** Embracery.
  - 76.** Misconduct of officers at drawing of jurors.
  - 77.** Misconduct of officer having charge of juries.
  - 78.** Certain punishments.
  - 79.** Offender a competent witness, etc.
  - 80.** Bribery of witnesses.
  - 81.** Definition of "jurors."

**§ 71. Bribery of a judicial officer.** A person who gives or offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a judicial officer, juror, referee, arbitrator, appraiser or assessor, or other person authorized by law to hear or determine any question, matter, case, proceeding, or controversy, with intent to influence his action, vote opinion, or decision thereupon, is punishable by imprisonment for not more than ten years, or by a fine of not more than five thousand dollars, or both.

3 R. S. 957, § 2.

**§ 72. Officer accepting bribe.** A judicial officer, a person who executes any of the functions of a public office not designated in Titles VI and VII of this Code, or a person employed by or acting for the state, or for any public officer in the business of the state, who asks, receives, or agrees to receive a bribe, or any money, property

or value of any kind, or any promise or agreement therefor, upon any agreement or understanding that his vote, opinion, judgment, action, decision, or other official proceeding, shall be influenced thereby, or that he will do or omit any act or proceeding, or in any way neglect or violate any official duty is punishable by imprisonment for not more than ten years, or by fine of not more than five thousand dollars, or both. A conviction also forfeits any office held by the offender, and forever disqualifies him from holding any public office under the state.

3 R. S. 957, § 10.

**§ 73. Juror, etc., promising verdict.** A juror or a person drawn or summoned to attend as a juror, or a person chosen arbitrator, or appointed referee, who either,

1. Makes any promise or agreement to give a verdict, judgment, report, award, or decision, for or against any party ; or

2. Willfully receives any communication, book, paper instrument, or information, relating to a cause or matter pending before him, except according to the regular course of proceeding upon the trial or hearing of that cause or matter ;

Is guilty of a misdemeanor.

**§ 74. Juror, etc., accepting bribes.** A juror, referee, arbitrator, appraiser, or assessor, or other person authorized by law to hear or determine any question, matter, cause, controversy, or proceeding, who asks, receives, or agrees to receive, any money, property, or value of any kind, or any promise or agreement therefor, upon any agreement or understanding that his vote, opinion, action, judgment or decision, shall be influenced thereby, is punishable by imprisonment for not more than ten years, or by fine of not more than five thousand dollars, or both.

Id., § 11.

**§ 75. Embracery.** A person who influences or attempts to influence improperly, a juror in a civil or criminal action or proceeding, or one drawn or summoned to attend as such a juror, or one chosen an arbitrator, or appointed a referee, in respect to his verdict, judgment, report, award or decision in any cause or matter pending, or about to be brought before him, in any case, or in any manner not included in the last two sections, is guilty of a misdemeanor.

3 R. S. 958, § 12.

**§ 76. Misconduct of officers at drawing of jurors.** A person authorized by law to assist at the drawing or impaneling of grand or petit jurors to attend a court, or a term of a court, or to try any cause or issue, who either

1. Designedly puts, or consents to the putting, upon a list of

jurors as having been drawn, any name which was not lawfully drawn for that purpose ; or

2. Designedly omits to place on such a list any name which was lawfully drawn ; or

3. Designedly signs or certifies a list of such jurors as having been drawn which was not lawfully drawn ; or

4. Designedly withdraws from the box, or other receptacle for the ballots containing the names of such jurors, any paper or ballot lawfully placed or belonging there and containing the name of a juror, or omits to place in such box or receptacle any name lawfully drawn or designated, or places in such box or receptacle a paper or ballot containing the name of a person not lawfully drawn and designated as a juror ; or

5. In the drawing of such jurors, does any act which is unfair, partial, or improper in any other respect ;

Is guilty of a misdemeanor.

But this section shall not apply to the city and county of New York or the county of Kings.

3 R. S. 972, § 18.

**§ 77. Misconduct of officer having charge of juries.** An officer to whose charge any juror is committed by a court or magistrate, who negligently or willfully permits them, or any of them, without leave of the court or magistrate

1. To receive any communication from any person ;

2. To make any communication to any person ;

3. To obtain or receive any book or paper, or refreshment ; or,

4. To leave the jury room,

Is guilty of a misdemeanor.

**§ 78. Certain punishments.** A person who gives or offers, or causes to be given or offered, a bribe, or any money, property, or value of any kind, or any promise or agreement therefor, to a person executing any of the functions of a public office, other than one of the officers or persons designated in Title VI, Title VII and § 71 of Title VIII of this Code, with intent to influence him in respect to any act, decision, vote, or other proceeding, in the exercise of his powers or functions, is punishable by imprisonment for not more than ten years, or by a fine of not more than five thousand dollars, or both.

2 R. S. 457, § 9.

**§ 79. Offender a competent witness, etc.** A person offending against any provision of any foregoing sections of this Code relating to bribery, is a competent witness against another person so offending, and may be compelled to attend and testify upon any trial, hearing, proceeding, or investigation, in the same manner as any

other person. But the testimony so given shall not be used in any prosecution or proceeding, civil or criminal, against the person so testifying. A person so testifying to the giving of a bribe which has been accepted, shall not thereafter be liable to indictment, prosecution, or punishment for that bribery, and may plead or prove the giving of testimony accordingly, in bar of such an indictment or prosecution.

§ R. S. 958, § 14.

**§ 80. Bribery of witnesses.** A person who is, or is about to be, a witness upon a trial, hearing, or other proceeding, before any court, or any officer authorized to hear evidence or take testimony, who receives, or agrees or offers to receive, a bribe, upon any agreement or understanding that his testimony shall be influenced thereby, or that he will absent himself from the trial, hearing, or other proceeding, is guilty of a felony.

**§ 81. Definition of "jurors."** The word "juror" as used in this chapter includes a talesman, and extends to jurors in all courts, whether of record or not of record, and in special proceedings, and before any officer authorized to impanel a jury in any case or proceeding.

## CHAPTER II.

### RESCUES.

**SECTION 82.** Rescue of prisoner.

83. Taking, etc., property in officer's custody.

**§ 82. Rescue of prisoner.** A person who, by force or fraud, rescues a prisoner from lawful custody, or from an officer or other person having him in lawful custody, is guilty of a felony, if the prisoner was held upon a charge, commitment, arrest, conviction, or sentence of felony; and if the prisoner was held upon a charge, arrest, commitment, conviction, or sentence for misdemeanor, the rescuer is guilty of a misdemeanor.

§ R. S. 960, § 26.

**§ 83. Taking, etc., property in officer's custody.** A person who takes from the custody of an officer or other person, personal property, in charge of the latter, under any process of law, or who willfully injures or destroys such property, is guilty of a misdemeanor.



## CHAPTER III.

### ESCAPES, AND AIDING THEREIN.

**Section 84.** Escaping prisoner may be recaptured.

85. Prisoner escaping.

86. Attempt to escape from state prison.

87. Aiding escape.

88. Same.

89. Officer suffering escape.

90. Same, forfeits office.

91. Concealing escaped prisoner.

92. Definition of prison.

93. Definition of prisoner.

§ 84. Escaping prisoner may be recaptured. A prisoner, in custody under sentence of imprisonment for any crime, who escapes from custody, may be recaptured and imprisoned for a term equal to that portion of his original term of imprisonment which remained unexpired upon the day of his escape.

3 R. S. 961, § 32.

§ 85. Prisoner escaping. A prisoner who, being confined in a prison, or being in lawful custody of an officer or other person, by force or fraud escapes from such prison or custody, is guilty of felony if such custody or confinement is upon a charge, arrest, commitment, or conviction for a felony; and of a misdemeanor if such custody or confinement is upon a charge, arrest, commitment or conviction for a misdemeanor.

3 R. S. 962, §§ 3, 4, 5.

§ 86. Attempt to escape from state prison. A prisoner confined in a state prison for a term less than for life, who attempts by force or fraud, although unsuccessfully, to escape from such prison, is guilty of felony.

3 R. S. 962, §§ 33-35.

§ 87. Aiding escape. A person who, with intent to effect or facilitate the escape of a prisoner, whether the escape is effected or attempted or not, enters a prison, or conveys to a prisoner any information, or sends into a prison any disguise, instrument, weapon, or other thing, is guilty of felony, if the prisoner is held upon a charge, arrest, commitment, or conviction for a felony; and of a misdemeanor, if the prisoner is held upon a charge, arrest, commitment, or conviction for a misdemeanor.

3 R. S. 960, §§ 25, 29.

§ 88. Same. A person who aids or assists a prisoner in escaping, or attempting to escape, from the lawful custody of a sheriff, or other officer or person, is guilty of a misdemeanor, if the prisoner is held under arrest, commitment, or conviction for a misdemeanor, or upon

a charge thereof; and of a felony if the prisoner is held under an arrest, commitment, or conviction for a felony, or upon a charge thereof.

**§ 89. Officer suffering escape.** A sheriff, or other officer or person, who allows a prisoner, lawfully in his custody, in any action or proceeding, civil or criminal, or in any prison under his charge or control, to escape or go at large, except as permitted by law, or connives at or assists such escape, or omits an act or duty whereby such escape is occasioned, or contributed to, or assisted, is

1. If he corruptly and willfully allows, connives at, or assists the escape, guilty of a felony;

2. In any other case, is guilty of a misdemeanor.

3 R. S. 960, § 30.

**§ 90. Id.; forfeits office.** An officer who is convicted of the offense specified in the first subdivision of the last section, forfeits his office, and is forever disqualified to hold any office, or place of trust honor or profit, under the constitution or laws of this state.

3 R. S. 960, § 31.

**§ 91. Concealing escaped prisoner.** A person who knowingly or willfully conceals, or harbors for the purpose of concealment, a person who has escaped or is escaping from custody, is guilty of a felony if the prisoner is held upon a charge or conviction of felony, and of a misdemeanor if the person is held upon a charge or conviction of misdemeanor.

**§ 92. Definition of prison.** The term, "prison," as used in this chapter, means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest.

**§ 93. Definition of prisoner.** The term, "prisoner," as used in this chapter, means any person held in custody under process of law, or under lawful arrest.

## CHAPTER IV.

### FORGING, STEALING, MUTILATING AND FALSIFYING JUDICIAL AND PUBLIC RECORDS AND DOCUMENTS.

**SECTION 94.** Injury, etc., to public record.

95. Offering false or forged instruments to be filed or recorded.

**§ 94. Injury, etc., to public record.** A person who, willfully and unlawfully removes, mutilates, destroys, conceals, or obliterates a record, map, book, paper, document, or other thing, filed or deposited in a public office or with any public officer by authority of law, is punishable by imprisonment for not more than five years, or by a fine of not more than \$500, or by both.

**§ 95. Offering false or forged instruments to be filed or recorded.** A person who knowingly procures or offers any false or forged instrument to be filed, registered or recorded in any public office within this state, which instrument, if genuine, might be filed or registered or recorded under any law of this state or of the United States, is guilty of felony.

## CHAPTER V.

### PERJURY AND SUBORNATION OF PERJURY.

- SECTION** 96. Perjury.  
97. Irregularities in the mode of administering oaths.  
98. Incompetency of witness no defense for perjury.  
99. Witness's knowledge of materiality of his testimony not necessary.  
100. Making of deposition, etc., when deemed complete.  
101. Statement of that which one does not know to be true.  
102. Summary committal of witnesses who have committed perjury.  
103. Witnesses necessary to prove the perjury, may be bound over to appear.  
104. Documents necessary to prove such perjury may be detained.  
105. Subornation of perjury defined.  
106. Punishment of perjury and subornation.

**§ 96. Perjury.** A person who swears or affirms that he will truly testify, declare, depose, or certify, or that any testimony, declaration, deposition, certificate, affidavit or other writing by him subscribed, is true, in an action, or a special proceeding, or upon any hearing, or inquiry, or on any occasion in which an oath is required by law, or is necessary for the prosecution or defense of a private right, or for the ends of public justice, or may lawfully be administered, and who in such action or proceeding, or on such hearing, inquiry or other occasion, willfully and knowingly testifies, declares, deposes, or certifies falsely, in any material matter, or states in his testimony, declaration, deposition, affidavit, or certificate, any material matter to be true which he knows to be false, is guilty of perjury.

3 R. S. 955, § 1.

**§ 97. Irregularities in the mode of administering oaths.** It is no defense to a prosecution for perjury that an oath was administered or taken in an irregular manner. The term "oath," includes an affirmation, and every other mode authorized by law of attesting the truth of that which is stated.

3 R. S. 673, § 137.

**§ 98. Incompetency of witness no defense for perjury.** It is no defense to a prosecution for perjury that the defendant was not competent to give the testimony, deposition or certificate of which falsehood is alleged. It is sufficient that he actually was permitted to give such testimony or make such deposition or certificate.

**§ 99. Witness' knowledge of materiality of his testimony not necessary.** It is no defense to a prosecution for perjury that the defendant did not know the materiality of the false statement made by him; or that it did not in fact affect the proceeding in or for which it was made. It is sufficient that it was material, and might have affected such proceeding.

**§ 100. Making of deposition, etc., when deemed complete.** The making of a deposition or certificate is deemed to be complete, within the provisions of this chapter, from the time when it is delivered by the defendant to any other person with intent that it be uttered or published as true.

**§ 101. Statement of that which one does not know to be true.** An unqualified statement of that which one does not know to be true is equivalent to a statement of that which he knows to be false.

**§ 102. Summary committal of witnesses who have committed perjury.** Where it appears probable to a court of record that a person, who has testified before it in an action or proceeding in that court, has committed perjury in any testimony so given, the court may immediately commit him, by an order or process for that purpose, to prison, or take a recognizance, with sureties, for his appearing and answering to an indictment for perjury.

3 R. S. 266, § 5.

**§ 103. Witnesses necessary to prove the perjury, may be bound over to appear.** In a case specified in the last section, the court may bind over witnesses to establish the perjury, to appear at the proper court to testify before a grand jury, and also upon the trial, in case an indictment is found for the perjury. It must cause immediate notice of any such commitment or recognizance, with the names of the witnesses so bound over, to be given to the district attorney of the county.

Id. § 6.

**§ 104. Documents necessary to prove such perjury may be detained.** In such a case, if a paper or document, produced by either party, is deemed by the court necessary to be used in the prosecution for the perjury, the court may detain the same, and direct it to be delivered to the district attorney.

Id. § 7.

**§ 105. Subornation of perjury defined.** A person, who willfully procures or induces another to commit perjury is guilty of subornation of perjury.

Id. § 8.

**§ 106. [am'd 1892.] Punishment of perjury and subornation.** Perjury and subornation of perjury are each punishable as follows:

1. When the perjury is committed upon the trial of an indictment for felony, by imprisonment for a term not exceeding twenty years:

2. In any other case, by imprisonment for a term not exceeding ten years.

3 R. S. 956, § 2.

## CHAPTER VI.

### FALSIFYING EVIDENCE.

**SECTION 107.** Offering false evidence.

108. Deceiving a witness.

109. Preparing false evidence.

110. Destroying evidence.

111. Preventing or dissuading witnesses from attending.

112. Inducing another to commit perjury.

113. Bribing witnesses.

§ 107. [*am'd 1890.*] **Using forged, etc., evidence.**—A person who, upon any trial, hearing, inquiry, investigation or other proceeding authorized by law, offers or procures to be offered in evidence or to be used on a motion, as genuine, a book, paper, document, record or other instrument in writing, knowing the same to have been forged or fraudulently altered, is guilty of felony.

§ 108. **Deceiving a witness.** A person who practices any fraud or deceit, or knowingly makes or exhibits any false statement, representation, token or writing, to any witness or person about to be called as a witness, upon any trial, proceeding, inquiry or investigation whatever, conducted by authority of law, with intent to affect the testimony of such witness, is guilty of a misdemeanor.

§ 109. [*am'd 1890.*] **Forging evidence.**—A person who fraudulently makes or prepares any false record, instrument in writing, or other matter or thing, with intent to produce it, or allow it to be produced in evidence, or on a motion, as genuine, upon any trial, hearing, investigation, inquiry, or other proceeding, authorized by law, is guilty of a felony.

§ 110. [*am'd 1890.*] **Destroying evidence.**—A person who, knowing that a book, paper, record, instrument in writing, or other matter or thing, is or may be required in evidence, or on a motion, upon any trial, hearing, inquiry, investigation, or other proceeding, authorized by law, willfully destroys the same, with intent thereby to prevent the same from being produced, is guilty of a misdemeanor.

§ 111. **Preventing or dissuading witnesses from attending.** A person who willfully prevents or dissuades any person who has been duly summoned or subpoenaed as a witness from attending, pursuant to the summons or subpoena, is guilty of a misdemeanor.

**§ 112. Inducing another to commit perjury.** A person who without giving, offering or promising a bribe, incites or attempts to procure another to commit perjury, or to give false testimony as a witness, though no perjury is committed or false testimony given, or to withhold true testimony, is guilty of a misdemeanor.

**§ 113. Bribing witnesses.** A person who gives or offers or promises to give, to any witness or person about to be called as a witness, any bribe, upon any understanding or agreement that the testimony of such witness shall be thereby influenced, or who attempts by any other means fraudulently to induce any witness to give false testimony or to withhold true testimony, is guilty of a felony.

**§ R. S. 958, § 8.**

## **CHAPTER VII.**

### **OTHER OFFENCES AGAINST PUBLIC JUSTICE.**

- SECTION 114.** Injury to records and misappropriation by ministerial officers.
115. Permitting escapes, and other unlawful acts, committed by ministerial officers.
116. Neglecting or refusing to execute process.
117. General provision as to neglect, etc.
- 117a. Neglect of county officer to make report.
118. Delaying to take person arrested for crime before a magistrate.
119. Making arrests, etc., without lawful authority. Race tracks.
120. Misconduct in executing search warrant.
121. Refusing to aid officer in making an arrest.
122. Refusing to make an arrest.
123. Resisting execution of process, aiding escapes, etc., in county which has been proclaimed in insurrection.
124. Resisting public officer in the discharge of his duty.
125. Compounding crimes.
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129. Buying lands in suit.
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132. Common barratry defined.
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134. What proof is required.
135. Interest.
136. Buying demands for suit by an attorney.
137. Buying demands by a justice or constable, for suit before a justice.
138. Lending money upon claims delivered for collection.
139. Forfeiture of office.
140. Receiving claims, in what cases allowable.
141. Application of previous sections to persons prosecuting in person.
142. Witness' privilege restricted.
143. Criminal contempts.
144. Grand juror acting after challenge has been allowed.
145. Disclosure of depositions taken by a magistrate.
146. Disclosure of depositions returned by grand jury with presentment.
147. Racing near a court.
148. *Misconduct by attorneys.*

149. Permitting attorney's name to be used.
150. In what cases lawful.
151. Production of pretended heir.
152. Substituting one child for another.
153. Importing foreign convicts.
154. Omission of duty by public officer.
- 154a. Falsely marking enrolled person exempt.
155. Commission of prohibited acts.
156. Disclosing fact of indictment having been found.
157. Grand juror disclosing what transpired before the grand jury.
- 157a. Stenographer disclosing evidence taken before grand jury.
158. Instituting suit in false name
159. Maliciously procuring search warrant.
160. Unauthorized communications with convict in state prison.
161. Neglect to return names of constables.
162. Falsely certifying, etc., as to deeds.
163. Other false certificates.
164. Penalty for recording, etc., without acknowledgment.
165. False auditing and paying claims.
166. Same.
167. Same.

**§ 114. Injury to records and misappropriation by ministerial officers.** A sheriff, coroner, clerk of a court, constable or other ministerial officer, and every deputy or subordinate of any ministerial officer, who either :

1. Mutilates, destroys, conceals, erases, obliterates or falsifies any record or paper appertaining to his office ; or,

2. Fraudulently appropriates to his own use or to the use of another person, or secretes with intent to appropriate to such use, any money, evidence of debt or other property intrusted to him in virtue of his office,

Is guilty of felony.

2 R. S. §§ 26, 54.

**§ 115. Permitting escapes, and other unlawful acts, committed by ministerial officers.** A sheriff, coroner, clerk of a court, constable, or other ministerial officer, and every deputy or subordinate of any ministerial officer, who either :

1. Receives any gratuity, or reward, or any security or promise of one, to procure, assist, connive at or permit any prisoner in his custody to escape, whether such escape is attempted or not ; or,

2. Comits any unlawful act tending to hinder justice,

Is guilty of misdemeanor.

3 R. S. 961, § 30.

**§ 116. Neglecting or refusing to execute process.** An officer who, in violation of a duty imposed upon him by law to receive a person into his official custody, or into a prison under his charge, willfully neglects or refuses so to do, is guilty of a misdemeanor.

Id. § 30.

**§ 117. General provision as to neglect, etc.** A public officer, or person holding a public trust or employment, upon whom any duty

is enjoined by law, who willfully neglects to perform the duty, is guilty of a misdemeanor. This and the preceding section do not apply to cases of official acts or omissions the prevention or punishment of which is otherwise specially provided by statute.

§ R. S. 983, § 101.

§ 117a. [added 1893.] **Neglect of county officer to make report.** A county officer or an officer whose salary is paid by the county, who neglects or refuses to make a report under oath to the board of supervisors of such county on any subjects or matters connected with the duties of his office, whenever required by resolution of such board, is guilty of a misdemeanor.

§ 118. **Delaying to take person arrested for crime before a magistrate.** A public officer or other person having arrested any person upon a criminal charge, who willfully and wrongfully delays to take such person before a magistrate having jurisdiction to take his examination, is guilty of a misdemeanor.

§ 119. [am'd 1892.] **Making arrests, etc., without lawful authority. Race tracks.** No sheriff of a county, mayor of a city, or officials, or other person authorized by law to appoint special deputy sheriffs, special constables, marshals, policemen, or other peace officers in this state, to preserve the public peace or quell public disturbance, shall hereafter, at the instance of any agent, society, association or corporation, or otherwise, appoint as such special deputy, special constable, marshal, policemen, or other peace officer, any person who shall not be a citizen of the United States and a resident of the state of New York, and entitled to vote therein at the time of his appointment, and a resident of the same county as the mayor or sheriff or other official making such appointment; and no person shall assume or exercise the functions, powers, duties or privileges incident and belonging to the office of special deputy sheriff, special constables, marshal or policemen, or other peace officer, without having first received his appointment in writing from the authority lawfully appointing him. Any person or persons who shall, in this state, without due authority, exercise or attempt to exercise the functions of, or hold himself out to any one as a deputy sheriff, marshal or policeman, constable or peace officer, or any public officer, or person pretending to be a public officer, who, unlawfully, under the pretence or color of any process, arrests any person or detains him against his will, or seizes or levies upon any property, or dispossesses any one of any lands or tenements without a regular process therefor, or any person who knowingly violates any other provision of this section, is guilty of a misdemeanor. But nothing herein contained shall be deemed to affect, repeal or abridge



the powers authorized to be exercised under sections one hundred and two, one hundred and four, one hundred and sixty-nine, one hundred and eighty-three, eight hundred and ninety-five, eight hundred and ninety-six and eight hundred and ninety-seven of the Code of Criminal Procedure; or under chapter three hundred and forty-six of the laws of eighteen hundred and sixty-three, as amended by chapter two hundred and fifty-nine of the laws of eighteen hundred and sixty-six, and chapter one hundred and ninety-three of the laws of eighteen hundred and seventy-five; or under chapter two hundred and twenty-three of the laws of eighteen hundred and eighty; or under chapter five hundred and twenty-seven of the laws of eighteen hundred and seventy-three; or under chapter two hundred and five of the laws of eighteen hundred and seventy-five; but all places kept for summer resorts and the grounds of racing associations in the counties of New York, Kings and Westchester, are hereby exempted from the provisions of this act.

**§ 120. Misconduct in executing search warrant.** An officer, who, in executing a search warrant, willfully exceeds his authority, or exercises it with unnecessary severity, is guilty of a misdemeanor.

**§ 121. Refusing to aid officer in making an arrest.** A person, who, after having been lawfully commanded to aid an officer in arresting any person, or in retaking any person who has escaped from legal custody, or in executing any legal process, willfully neglects or refuses to aid such officer is guilty of a misdemeanor.

**§ 122. Refusing to make an arrest.** A person, who, after having been lawfully commanded by any magistrate to arrest another person, willfully neglects or refuses so to do, is guilty of a misdemeanor.

**§ 123. Resisting execution of process, aiding escapes, etc., in county which has been proclaimed in insurrection.** A person, who, after proclamation issued by the governor declaring a county to be in a state of insurrection, resists, or aids in resisting, the execution of a process in such county, or who aids or attempts the rescue or escape of another from lawful custody or confinement in such county, or who resists, or aids in resisting, a force ordered out by the governor to quell or suppress an insurrection, is guilty of a felony.

**§ 124. Resisting public officer in the discharge of his duty.** A person, who, in any case or under any circumstances not otherwise specially provided for, willfully resists, delays, or obstructs a public officer in discharging, or attempting to discharge, a duty of his office, is guilty of a misdemeanor.

**§ 125. Compounding crimes.** A person who takes money or other property, gratuity or reward, or an engagement or promise therefor, upon an agreement or understanding, express or implied, to compound or conceal a crime, or a violation of statute, or to abstain from, discontinue, or delay, a prosecution therefor, or to withhold any evidence thereof, except in a case where a compromise is allowed by law, is guilty :

1. Of a felony, punishable by imprisonment in a state prison for not more than five years, where the agreement or understanding relates to a felony punishable by death, or by imprisonment in a state prison for life ;

2. Of a felony, punishable by imprisonment in a state prison for not more than three years, where the agreement or understanding relates to another felony ;

3. Of a misdemeanor, punishable by imprisonment in a county jail for not more than one year, or by fine of not more than \$250, or both, where the agreement or understanding relates to a misdemeanor, or to a violation of a statute for which a pecuniary penalty or forfeiture is prescribed.

3 R. S. 966, § 22.

**§ 126. Conviction of primary offender, etc.** Upon the trial of an indictment for compounding a crime, it is not necessary to prove that any person has been convicted of the crime or violation of statute, in relation to which an agreement or understanding herein prohibited was made.

3 R. S. 966, § 24.

**§ 127. Intimidating, etc., public officer.** A person who directly or indirectly addresses any threat or intimidation to a public officer, or to a juror, referee, arbitrator, appraiser, or assessor, or to any other person, authorized by law to hear or determine any controversy or matter, with intent to induce him, contrary to his duty, to do or make, or to omit or delay, any act, decision or determination, is guilty of a misdemeanor.

**§ 128. Suppressing evidence.** A person who maliciously practices any deceit or fraud, or uses any threat, menace or violence, with intent to prevent any party to an action or proceeding from obtaining or producing therein any book, paper, or other thing which might be evidence, or from procuring the attendance or testimony of any witness therein, or with intent to prevent any person having in his possession any book, paper, or other thing which might be evidence in such suit or proceeding, or to prevent any person being cognizant of any fact material thereto from producing or disclosing the same, is guilty of a misdemeanor.

**§ 129. Buying lands in suit.** A person who takes a conveyance of any lands or tenements, or of any interest or estate therein, from

any person not being in the possession thereof, while such lands or tenements are the subject of controversy, by suit in any court, knowing the pendency of such suit and that the grantor was not in possession of such lands or tenements, is guilty of a misdemeanor.

§ R. S. 790, § 5.

**§ 130. Buying pretended titles.** A person who buys or sells, or in any manner procures, or takes or makes any covenant or promises to convey any right or title, real or pretended, to any lands or tenements, unless the grantor thereof or the person making such covenant or promise has been in possession, or he and those by whom he claims, have been in possession of the same or of the reversion and remainder thereof, or have taken the rents and profits thereof for the space of one year before such covenant or promise made, is guilty of a misdemeanor.

**§ 131. [*am'd* 1888.] Mortgage of lands under adverse possession not prohibited.** The last two sections shall not be construed to prevent any person having a just title to lands in the adverse possession of another, from executing a mortgage upon such lands, nor shall said sections apply to any conveyance or release of lands or tenements to any person in the lawful possession thereof.

**§ 132. Common barratry defined.** Common barratry is the practice of exciting groundless judicial proceedings.

**§ 133. Declared a misdemeanor.** Common barratry is a misdemeanor.

**§ 134. What proof is required.** No person can be convicted of common barratry, except upon proof that he has excited actions or legal proceedings, in at least three instances, and with a corrupt or malicious intent to vex and annoy.

**§ 135. Interest.** Upon a prosecution for common barratry, the fact that the defendant was himself a party in interest or upon the record to any action or legal proceeding complained of, is not a defense.

**§ 136. Buying demands for suit by an attorney.** An attorney or counselor who violates section 73 of the Code of Civil Procedure, relating to buying demands, or section 74 of the Code of Civil Procedure relating to certain promises and gifts, is guilty of a misdemeanor.

§ R. S. 449, §§ 59-62.

**§ 137. Buying demands by a justice or constable, for suit before a justice.** A justice of the peace or constable who, directly or indirectly, buys or is interested in buying any thing in action, for the purpose of commencing a suit thereon before a justice, is guilty of a misdemeanor.

§ R. S. 497, §§ 164, 165.

**§ 138. Lending money upon claims delivered for collection.** A justice of the peace or constable who, directly or indirectly, gives, or promises to give, any valuable consideration to any person as an inducement to bring, or in consideration of having brought, a suit thereon before a justice, is guilty of a misdemeanor.

**§ 139. Forfeiture of office.** A person convicted of a violation of any of the three preceding sections, in addition to the punishment, by fine and imprisonment, prescribed therefor by this Code, forfeits his office.

3 R. S. 427, § 165.

**§ 140. Receiving claims in what cases allowable.** Nothing in the four preceding sections shall be construed to prohibit the receiving in payment of any thing in action for any estate, real or personal, or for any services of an attorney or counselor actually rendered, or for a debt antecedently contracted; or the buying or receiving of any thing in action for the purpose of remittance, and without any intent to violate the preceding sections.

3 R. S. 448, § 62.

**§ 141. Application of previous sections to persons prosecuting in person.** The provisions of sections 136, 138 and 140, relative to the buying of claims by an attorney, counselor, justice of the peace or constable, with intent to prosecute them, or to the lending or advancing of money by an attorney or counselor in consideration of a claim being delivered for collection, apply to every case of such buying a claim, or lending or advancing money, by any person prosecuting in person an action or legal proceeding.

**§ 142. Witnesses privilege restricted.** No person shall be excused from testifying, in any civil action or legal proceeding, to any facts showing that a thing in action has been bought, sold or received contrary to law, upon the ground that his testimony might tend to convict him of a crime. But no evidence derived from the examination of such person shall be received against him upon a criminal prosecution.

3. R. S. 450, §§ 64, 70.

**§ 143. Criminal contempts.** A person who commits a contempt of court, of any one of the following kinds, is guilty of a misdemeanor:

1. Disorderly, contemptuous, or insolent behavior, committed during the sitting of the court, in its immediate view and presence and directly tending to interrupt its proceedings or to impair the respect due to its authority;

2. Behavior of the like character, committed in the presence of a referee or referees, while actually engaged in a trial or hearing, pursuant to the order of the court, or in the presence of a jury, while

actually sitting for the trial of a cause, or upon an inquest or other proceeding authorized by law ;

3. Breach of the peace, noise, or other disturbance, directly tending to interrupt the proceedings of a court, jury, or referee ;

4. Willful disobedience to the lawful process or other mandate of a court ;

5. Resistance willfully offered to its lawful process or other mandate ;

6. Contumacious and unlawful refusal to be sworn as a witness, or, after being sworn, to answer any legal and proper interrogatory ;

7. Publication of a false or grossly inaccurate report of its proceedings. But no person can be punished as provided in this section, for publishing a true, full, and fair report of a trial, argument, decision, or other proceeding had in court.

3 R. S. 441, § 9.

**§ 144. Grand juror acting after challenge has been allowed.** A grand juror who, with knowledge that a challenge, interposed against him by a defendant, has been allowed, is present at or takes part or attempts to take part in the consideration of the charge against the defendant who interposed the challenge, or the deliberations of the grand jury thereon, is guilty of a misdemeanor.

**§ 145. [am'd 1888.] Disclosure of deposition taken by a magistrate.** A magistrate or clerk of any magistrate who willfully permits any deposition taken on an examination of a defendant before such magistrate, and remaining in the custody of such magistrate or clerk, to be inspected by any person, except a judge of a court having jurisdiction of the offense, the attorney-general, the district attorney of the county and his assistants, the complainant and his counsel, and the defendant and his counsel, is guilty of a misdemeanor.

**§ 146. Disclosure of depositions returned by grand jury with presentment.** A clerk of any court who willfully permits any deposition returned by a grand jury and filed with such clerk, to be inspected by any person, except the court, the deputies or assistants of such clerk, and the district attorney and his assistants, until after the arrest of the defendant, is guilty of a misdemeanor

**§ 147. Racing near a court.** A person concerned in any racing, running, or other trial of speed between horses or other animals, within one mile of the place where a court is actually sitting, is guilty of a misdemeanor.

3 R. S. 971, § 13.

**§ 148. Misconduct by attorneys.** An attorney or counselor who,

1. Is guilty of any deceit or collusion, or consents to any deceit or collusion, with intent to deceive the court or any party as prohibited by section 70 of the Code of Civil Procedure ; or,

2. Willfully delays his client's suit with a view to his own gain ; or, willfully receives any money or allowance for or on account of any money which he has not laid out, or become answerable for, as prohibited by section 71 of the Code of Civil Procedure,

Is guilty of a misdemeanor, and in addition to the punishment prescribed therefor by this Code, he forfeits to the party injured treble damages, to be recovered in a civil action.

3 R. S. 449, §§ 56, 57.

**§ 149. Permitting attorney's name to be used.** If an attorney knowingly permits any person, not being his general law partner or a clerk in his office, to sue out any process or to prosecute or defend any action in his name, except as authorized by the next section, such attorney, and every person who shall so use his name, is guilty of a misdemeanor.

3 R. S. 449, §§ 58, 61.

**§ 150. In what cases lawful.** Whenever an action or proceeding is authorized by law to be prosecuted or defended in the name of the people, or of any public officer, board of officers, or municipal corporation, on behalf of another party, the attorney-general, or district attorney, or attorney of such public officer or board or corporation may permit any proceeding therein, to be taken in his name by an attorney to be chosen by the party in interest.

1 R. S. 549, § 27.

**§ 151. Production of pretended heir.** A person who fraudulently produces an infant, falsely pretending it to have been born of a parent whose child is or would be entitled to inherit real property, or to receive a share of personal property, with intent to intercept the inheritance of such real property, or the distribution of such personal property, or to defraud any person out of the same, or any interest therein ; or who, with intent fraudulently to obtain any property, falsely represents himself or another to be a person entitled to an interest or share in the estate of a deceased person, either as executor, administrator, husband, wife, heir, legatee, devisee, next of kin, or relative of such deceased person ; is punishable by imprisonment in a state prison for not more than ten years.

3 R. S. 948, § 56.

**§ 152. Substituting one child for another.** A person, to whom a child has been confided for nursing, education, or any other purpose, who, with intent to deceive a parent, guardian or relative of the child, substitutes or produces to such parent, guardian or relative, another child or person, in place of the child so confided, is guilty

ishable by imprisonment in a state prison for not more than seven years.

**§ 153. Importing foreign convicts.** An owner, master or commander of any vessel arriving from a foreign country, who knowingly lands or permits to land at any port, city, harbor, or place within this state, any passenger, seaman or other person who is a foreign convict of any crime which, if committed within this state, would be punishable therein, without giving notice thereof to the mayor of such city, or other principal municipal officer of such port or place, is guilty of a misdemeanor.

**§ 154. Omission of duty by public officer.** Where any duty is or shall be enjoined by law upon any public officer, or upon any person holding a public trust or employment, every willful omission to perform such duty, where no special provision shall have been made for the punishment of such delinquency, is punishable as a misdemeanor.

**§ 154a. [added 1893]. Falsely marking enrolled person exempt.** A county clerk who marks "exempt" any person enrolled as liable to military duty, who he knows not to be exempt, is guilty of a misdemeanor.

**§ 155. Commission of prohibited acts.** Where the performance of any act is prohibited by a statute, and no penalty for the violation of such statute is imposed in any statute, the doing such act is a misdemeanor.

**§ 156. Disclosing fact of indictment having been found.** A judge, grand juror, district attorney, clerk, or other officer, who, except in the due discharge of his official duty, discloses, before an accused person is in custody, the fact of an indictment having been found or ordered against him, is guilty of a misdemeanor.

**§ 157. Grand Juror disclosing what transpired before the grand jury.** A grand juror who, except when lawfully required by a court or officer, willfully discloses, either

1. Any evidence adduced before the grand jury; or
2. Any thing which he himself or any other member of the grand jury said, or in what manner he or any other grand juror voted, upon any matter before them;

Is guilty of a misdemeanor.

**§ 157a. [added 1893]. Stenographer disclosing evidence taken before grand jury.** A stenographer appointed to take testimony given before a grand jury, who permits any person other than the district attorney to take a copy of such testimony or of any portion thereof or to read the same or any portion thereof, except on written order of the court, is guilty of a misdemeanor.

**§ 158. Instituting suit in false name.** A person who institutes or prosecutes an action or other proceeding in the name of another without his consent and contrary to the statutes, is guilty of a *misdemeanor, punishable by imprisonment not exceeding six months.*

**§ 159. Maliciously procuring search warrant.** A person who maliciously, and without probable cause, procures a search warrant to be issued and executed, is guilty of a misdemeanor.

**§ 160. [am'd 1893.] Communications with prisoners prohibited.** A person who :

1. Not being authorized by law or by a written permission from the superintendent of state prisons, visits any state prison, or communicates with any prisoner therein without the consent of the agent or warden, or without such consent brings into or conveys out of a state prison any letter, or writing to or from any prisoner; or

2. Conveys into such prison any article prohibited by law or by the rules of the superintendent, is guilty of a misdemeanor.

**§ 161. Neglect to return names of constables.** A town clerk who willfully omits to return to the county clerk the name of a person who has qualified as constable, pursuant to law, is punishable by a fine not exceeding ten dollars.

**§ 162. Falsely certifying, etc., as to deeds.** An officer authorized by law to record a conveyance of real property, or of any other instrument, which by law may be recorded, who knowingly and falsely certifies that such a conveyance or instrument has been recorded, is guilty of a felony.

**§ 163. Other false certificates.** A public officer who, being authorized by law to make or give a certificate or other writing, knowingly makes and delivers as true such a certificate or writing, containing any statement which he knows to be false, in a case where the punishment thereof is not expressly provided by law, is guilty of a misdemeanor.

**§ 164. Penalty for recording, etc., without acknowledgment.** A public officer authorized to file or record any instrument or conveyance of, or affecting property which is duly proved or acknowledged, who knowingly files or records any such instrument or conveyance which is not accompanied by a certificate according to law, of the proof or acknowledgment, is guilty of a misdemeanor.

**§ 165. [am'd 1892.] False auditing and paying claims.** A public officer, or a person holding or discharging the duties of any officer or place of trust under the state, or in any county, town, city or village, a part of whose duty is to audit, allow to pay, or take part in auditing, allowing or paying, claims or demands upon the state or such county, town, city or village, who knowingly audits, allows or pays, or directly or indirectly consents to, or in any way connives at the auditing, allowance or payment of any claim or demand against the state or such county, town, city or village, which is false or fraudulent, or contains charges, items or claims, which are false or fraudulent, is guilty of felony, punishable by imprisonment



ment for a term not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

1 R. S. 549, § 28.

**§ 166. Same.** A person who, being or acting as a public officer or otherwise, by willfully auditing, or paying, or consenting to, or conniving at the auditing or payment of a false or fraudulent claim or demand, or by any other means, wrongfully obtains, receives, converts, disposes of or pays out or aids, or abets another in obtaining receiving, converting, disposing of, or paying out any money or property, held, owned, or in the possession of the state, or of any city, county or village, or other public corporation, or any board, department, agency, trustee, agent or officer thereof, is guilty of a felony, punishable by imprisonment for not less than three nor more than five years, or by a fine not exceeding five times the amount or value of the money or the property converted, paid out, lost or disposed of by means of the act done or abetted by such person, or by both such imprisonment and fine. The amount of any such fine when paid or collected, shall be paid to the treasury of the corporation or body injured. A conviction under this section forfeits any office held by the offender, and renders him incapable thereafter of holding any office or place of trust.

1 R. S. 549, § 28.

**§ 167. Same.** A transfer in whole or part of any deposit with any bank or other depository, or of any credit, claim or demand upon such depository, whereby the right, title or possession of the owner or holder of such deposit, or of any custodian thereof, is impaired or affected, is a conversion thereof under the last section.

1 R. S. 550, § 29.

## [CHAPTER VIII.

### CONSPIRACY.

**SECTION 166.** Conspiracy defined.

169. Conspiracies against peace, etc.

170. No other conspiracies punishable.

171. Overt act, when necessary.

**§ 168. Conspiracy defined.** If two or more persons conspire, either

1. To commit a crime; or

2. Falsely and maliciously to indict another for a crime, or to procure another to be complained of or arrested for a crime; or

3. Falsely to institute or maintain an action or special proceeding; or

4. To cheat and defraud another out of property, by any means

which are in themselves criminal, or which, if executed, would amount to a cheat, or to obtain money or any other property by false pretenses ; or

5. To prevent another from exercising a lawful trade or calling, or doing any other lawful act, by force, threats, intimidation, or by interfering or threatening to interfere with tools, implements, or property belonging to or used by another, or with the use or employment thereof ; or

6. To commit any act injurious to the public health, to public morals, or to trade or commerce, or for the perversion or obstruction of justice, or of the due administration of the laws ;

Each of them is guilty of a misdemeanor.

§ R. S. 970, § 8.

§ 169. **Conspiracies against peace, etc.** If two or more persons, being out of this state, conspire to commit any act against the peace of this state, the commission or attempted commission of which, within this state, would be treason against the state, they are punishable by imprisonment in a state prison not exceeding ten years.

§ 170. **No other conspiracies punishable.** No conspiracy is punishable criminally unless it is one of those enumerated in the last two sections, and the orderly and peaceable assembling or co-operation of persons employed in any calling, trade or handicraft for the purpose of obtaining an advance in the rate of wages or compensation, or of maintaining such rate, is not a conspiracy.

§ 171. **Overt act, when necessary.** No agreement except to commit a felony upon the person of another, or to commit arson or burglary, amounts to a conspiracy, unless some act beside such agreement be done to effect the object thereof, by one or more of the parties to such agreement.

§ 171 "A". [added 1887.] **Coercion by employers.** Any person or persons, employer or employers of labor, and any person or persons of any corporation or corporations on behalf of such corporation or corporations, who shall hereafter coerce or compel any person or persons, employee or employees, laborer or mechanic, to enter into an agreement, either written or verbal from such person, persons, employee, laborer or mechanic, not to join or become a member of any labor organization, as a condition of such person or persons securing employment, or continuing in the employment of any such person or persons, employer or employers, corporation or corporations, shall be deemed guilty of a misdemeanor.

§ 2. The penalty for such misdemeanor shall be imprisonment in a penal institution for not more than six months, or by a fine of not more than \$200, or by both such fine and imprisonment.

## TITLE IX.

## OF CRIMES AGAINST THE PERSON.

|                     |                         |                                    |
|---------------------|-------------------------|------------------------------------|
| CHAPTER I. Suicide. | CHAPTER IV. Kidnapping. | CHAPTER VII. Duels and challenges. |
| II. Homicide.       | V. Assaults.            |                                    |
| III. Maiming.       | VI. Robbery.            | VIII. Libel.                       |

## CHAPTER I.

## SUICIDE.

- SECTION 172.** Suicide defined.  
 173. No forfeiture imposed for suicide.  
 174. Attempting suicide.  
 175. Aiding suicide.  
 176. Abetting an attempt at suicide.  
 177. Incapacity of person aided, no defense.  
 178. Punishment of attempting suicide.

§ 172. **Suicide defined.** Suicide is the intentional taking of one's own life.

§ 173. **No forfeiture imposed for suicide.** Although suicide is deemed a grave public wrong, yet from the impossibility of reaching the successful perpetrator, no forfeiture is imposed.

3 R. S. 994, § 42.

§ 174. **Attempting suicide.** A person who, with intent to take his own life, commits upon himself any act dangerous to human life, or which, if committed upon or towards another person and followed by death as a consequence, would render the perpetrator chargeable with homicide, is guilty of attempting suicide.

§ 175. **Aiding suicide.** A person who willfully, in any manner, advises, encourages, abets, or assists another person in taking the latter's life, is guilty of manslaughter in the first degree.

3 R. S. 992, § 7.

§ 176. **Abetting an attempt at suicide.** A person who willfully, in any manner, encourages, advises, assists or abets another person in attempting to take the latter's life, is guilty of a felony.

§ 177. **Incapacity of person aided, no defense.** It is not a defense to a prosecution under either of the last two sections, that the person who took, or attempted to take, his own life, was not a person deemed capable of committing crime.

§ 178. **Punishment of attempting suicide.** Every person guilty of attempting suicide is guilty of a felony, punishable by imprisonment in a state prison not exceeding two years, or by a fine not exceeding one thousand dollars, or both.

CHAPTER II.

HOMICIDE.

- Section 179.** Homicide defined.
180. Different kinds of homicide
  181. What proof of death is required.
  182. Common law petit treason is homicide.
  183. Murder in first degree defined.
  184. Id. ; second degree.
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  186. Murder in first degree, how punished.
  187. Murder in second degree, how punished.
  188. Manslaughter defined.
  189. Id. ; in the first degree.
  190. Killing unborn quick child.
  191. Id. ; by administering drugs, etc.
  192. Manslaughter in first degree, how punished.
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  194. Women taking drugs, etc.
  195. By negligent use of machinery.
  196. Owner of animals.
  197. Killing by overloading passenger vessel.
  198. Liability of persons in charge of steamboats.
  199. Liability of persons in charge of steam engines.
  200. Liability of physicians.
  201. Liability of persons making or keeping gunpowder contrary to law.
  202. Punishment of manslaughter in second degree.
  203. Homicide, when excusable.
  204. Justifiable homicide.
  205. Same.

§ 179. **Homicide defined.** Homicide is the killing of one human being by the act, procurement or omission of another.

3 R. S. 932, § 1.

§ 180. **Different kinds of homicide.** Homicide is either

1. Murder ;
2. Manslaughter ;
3. Excusable homicide ; or,
4. Justifiable homicide.

§ 181. **What proof of death is required.** No person can be convicted of murder or manslaughter unless the death of the person alleged to have been killed and the fact of killing by the defendant, as alleged, are each established as independent facts ; the former by direct proof, and the latter beyond a reasonable doubt.

§ 182. **Common law petit treason is homicide.** The rules of the common law, distinguishing the killing of a master by his servant, and of a husband by his wife, as petit treason, are abolished.

and those homicides are punishable, when not justifiable or excusable, as prescribed by this Code.

§ R. S. 929, § 8.

**§ 183. Murder in first-degree defined.** The killing of a human being, unless it is excusable or justifiable, is murder in the first degree, when committed, either

1. From a deliberate and premeditated design to effect the death of the person killed, or of another ; or

2. By an act imminently dangerous to others, and evincing a depraved mind, regardless of human life, although without a premeditated design to effect the death of any individual ; or without a design to effect death, by a person engaged in the commission of, or in an attempt to commit a felony, either upon or affecting the person killed or otherwise ; or

3. When perpetrated in committing the crime of arson in the first degree.

§ R. S. 923, § 5.

**184. Id. ; second degree.** Such killing of a human being is murder in the second degree, when committed with a design to effect the death of the person killed, or of another, but without deliberation or premeditation.

§ R. S. 923, § 5.

**§ 185. Duel fought out of this state.** A person who, by previous appointment made within the state, fights a duel without the state, and in so doing inflicts a wound upon his antagonist, whereof the person injured dies ; or who engages or participates in such a duel, as a second or assistant to either party, is guilty of murder in the second degree, and may be indicted, tried and convicted in any county of this state.

§ R. S. 923, § 6.

**§ 186. Punishment of murder in first degree.** Murder in the first degree is punishable by death.

§ R. S. 923, § 1.

**§ 187. Murder in second degree, how punished.** Murder in the second degree is punishable by imprisonment for the offender's natural life.

§ R. S. 931, § 30.

**§ 188. Manslaughter defined.** In a case other than one of those specified in the sections 183, 184 and 185, homicide, not being justifiable or excusable, is manslaughter.

§ R. S. 932, § 1.

**§ 189. In the first degree.** Such homicide is manslaughter in the first degree, when committed without a design to effect death, *either*

1. By a person engaged in committing, or attempting to commit, a misdemeanor, affecting the person or property, either of the person killed, or of another ; or

2. In the heat of passion, but in a cruel and unusual manner, or by means of a dangerous weapon.

3 R. S. 932, §§ 6, 15, 16.

§ 190. **Killing unborn quick child.** The willful killing of an unborn quick child, by any injury committed upon the person of the mother of such child, is manslaughter in the first degree.

3 R. S. 932, § 8.

§ 191. **Id.; By administering drugs, etc.** A person who provides, supplies or administers to a woman, whether pregnant or not, or who prescribes for, or advises or procures a woman to take any medicine, drug, or substance, or who uses or employs, or causes to be used or employed, any instrument or other means, with intent thereby to procure the miscarriage of a woman, unless the same is necessary to preserve her life, in case the death of the woman, or of any quick child of which she is pregnant, is thereby produced, is guilty of manslaughter in the first degree.

3 R. S. 932, §§ 9, 11, 12.

§ 192. [*am'd 1892.*] **Manslaughter in first degree, how punished.** Manslaughter in the first degree is punishable by imprisonment for a term not exceeding twenty years.

3 R. S. 935, § 25.

§ 193. **Manslaughter in second degree.** Such homicide is manslaughter in the second degree, when committed without a design to effect death, either

1. By a person committing or attempting to commit a trespass, or other invasion of a private right, either of the person killed, or of another, not amounting to a crime ; or

2. [*am'd 1887.*] In the heat of passion, but not by a dangerous weapon or by the use of means either cruel or unusual ; or

3. By any act, procurement or culpable negligence of any person, which, according to the provisions of this chapter, does not constitute the crime of murder in the first or second degree, nor manslaughter in the first degree.

3 R. S. 934, §§ 15, 16, 18, 23.

§ 194. **Women taking drugs, etc.** A woman quick with child, who takes or uses, or submits to the use of any drug, medicine, or substance, or any instrument or other means with intent to produce her own miscarriage, unless the same is necessary to preserve her own life, or that of the child whereof she is pregnant, if the death of such child is thereby produced, is guilty of manslaughter in the second degree.

3 R. S. 933, § 10.

**§ 195. By negligent use of machinery.** A person who, by any act of negligence or misconduct in a business or employment in which he is engaged, or in the use or management of any machinery, animals, or property of any kind, intrusted to his care, or under his control, or by any unlawful, negligent or reckless act, not specified by or coming within the foregoing provisions of this chapter, or the provisions of some other statute, occasions the death of a human being, is guilty of manslaughter in the second degree.

3 R. S. 934, § 24.

**§ 196. Owner of animals.** If the owner of a mischievous animal, knowing its propensities, willfully suffers it to go at large, or keeps it without ordinary care, and the animal, while so at large, and not confined, kills a human being, who has taken all the precautions which the circumstances permitted, to avoid the animal, the owner is guilty of manslaughter in the second degree.

3 R. S. 934, § 19.

**§ 197. Killing by overloading passenger vessel.** A person navigating a vessel for gain, who willfully or negligently receives so many passengers or such a quantity of other lading on board the vessel, that, by means thereof, the vessel sinks, or is upset or injured, and thereby a human being is drowned, or otherwise killed, is guilty of manslaughter in the second degree.

3 R. S. 934, § 20.

**§ 198. Liability of persons in charge of steamboats.** A person having charge of a steamboat used for the conveyance of passengers, or of a boiler or engine thereof, who, from ignorance, recklessness, or gross neglect, or for the purpose of excelling any other boat in speed, creates, or allows to be created, such an undue quantity of steam as to burst the boiler, or other apparatus in which it is generated or contained, or to break any apparatus or machinery connected therewith, whereby the death of a human being is occasioned, is guilty of manslaughter in the second degree.

3 R. S. 934, § 21.

**§ 199. Liability of persons in charge of steam engines.** An engineer or other person, having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam, employed in a boat or railway, or in a manufactory, or in any mechanical works, who willfully, or from ignorance or gross neglect, creates or allows to be created, such an undue quantity of steam as to burst the boiler, engine, or apparatus, or to cause any other accident, whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

3 R. S. 934, § 21.

**§ 200. Liability of physicians.** A physician or surgeon, or person practicing as such, who, being in a state of intoxication without a design to effect death, administers a poisonous drug or medicine, or does any other act as a physician or surgeon, to another person, which produces the death of the latter, is guilty of manslaughter in the second degree.

Id. § 22.

**§ 201. Liability of persons making or keeping gunpowder contrary to law.** A person who makes or keeps gunpowder or any other explosive substance within a city or village, in any quantity or manner prohibited by law, or by ordinance of the city or village, if any explosion thereof occurs, whereby the death of a human being is occasioned, is guilty of manslaughter in the second degree.

**§ 202. [am'd 1892.] Punishment of manslaughter in second degree.** Manslaughter in the second degree is punishable by imprisonment for a term not exceeding fifteen years, or by a fine of not more than one thousand dollars, or by both.

3 R. S. 935, § 25.

**§ 203. Homicide, when excusable.** Homicide is excusable when committed by accident and misfortune, in lawfully correcting a child or servant, or in doing any other lawful act, by lawful means, with ordinary caution, and without any unlawful intent.

Id. 932, § 4.

**§ 204. Justifiable homicide.** Homicide is justifiable when committed by a public officer, or a person acting by his command and in his aid and assistance, either

1. In obedience to the judgment of a competent court ; or
2. Necessarily, in overcoming actual resistance to the execution of the legal process, mandate or order of a court or officer, or in the discharge of a legal duty ; or
3. Necessarily, in retaking a prisoner who has committed, or has been arrested for, or convicted of a felony, and who has escaped or has been rescued, or in arresting a person who has committed a felony and is fleeing from justice ; or in attempting by lawful ways and means to apprehend a person for a felony actually committed, or in lawfully suppressing a riot, or in lawfully preserving the peace.

3 R. S. 932, § 23.

**§ 205 Same.** Homicide is also justifiable when committed, either

1. In the lawful defense of the slayer, or of his or her husband, wife, parent, child, brother, sister, master or servant, or of any other person in his presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a



felony, or to do some great personal injury to the slayer, or to any such person, and there is imminent danger of such design being accomplished ; or

2. In the actual resistance of an attempt to commit a felony upon the slayer, in his presence, or upon or in a dwelling or other place of abode in which he is.

§ R. S. 932, § 23.

## CHAPTER III.

### MAIMING.

**SECTION 206.** Maiming defined, how punished.

207. Maiming one's self to escape performance of a duty.

208. Maiming one's self to obtain alms.

209. What injury may constitute maiming.

210. Subsequent recovery of injured person, when a defense.

§ 206. [*Repealed 1894.*]

§ 207. **Maiming one's self to escape performance of a duty.** A person who, with design to disable himself from performing a legal duty, existing or anticipated, inflicts upon himself an injury, whereby he is so disabled is guilty of a felony.

§ 208. **Maiming one's self to obtain alms.** A person who inflicts upon himself an injury, such as if inflicted upon another would constitute maiming, with intent to avail himself of such injury, in order to excite sympathy, or to obtain alms, or any charitable relief, is guilty of a felony.

§ 209. **What injury may constitute maiming.** To constitute maiming, it is immaterial by what means or instrument, or in what manner, the injury was inflicted.

§ 210. **Subsequent recovery of injured person, when a defense.** Where it appears, upon a trial for maiming another person, that the person injured has, before the time of trial, so far recovered from the wound, that he is no longer by it disfigured in personal appear

ance, or disabled in any member or organ of his body, or affected in physical vigor, no conviction for maiming can be had; but the defendant may be convicted of assault in any degree.

## CHAPTER IV.

### KIDNAPPING.

**SECTION 211.** Kidnapping defined.

212. Indictment, when triable.

213. Effect of consent of injured person.

214. Selling services of person of color.

215. Removing from this state persons held to service in another state.

216. Penalty imposed on judicial officers.

**§ 211. Kidnapping defined.** A person who willfully,

1. Seizes, confines, inveigles, or kidnaps another, with intent to cause him, without authority of law, to be secretly confined or imprisoned within this state, or to be sent out of the state, or to be sold as a slave, or in any way held to service or kept or detained, against his will; or

2. [*am'd 1888.*] Leads, takes, entices away, or detains a child under the age of sixteen years, with intent to keep or conceal it from its parents, guardian, or other person having the lawful care or control thereof, or to extort or obtain money or reward for the return or disposition of the child, or with intent to steal any article about or on the person of the child; or,

3. Abducts, entices, or by force or fraud unlawfully takes, or carries away another, at or from a place without the state, or procures, advises, aids, or abets such an abduction, enticing, taking, or carrying away, and afterwards sends, brings, has, or keeps such person, or causes him to be kept or secreted within this state;

Is guilty of kidnapping, and is punishable by imprisonment for not more than fifteen years.

3 R. S. 936, § 35.

**§ 212. Indictment, where triable.** An indictment for kidnapping may be tried either in the county in which the offense was committed, or in any county through or in which the person kidnapped or confined was taken or kept, while under confinement or restraint.

3 R. S. 937, § 36.

**§ 213. Effect of consent of injured person.** Upon a trial for a violation of this chapter, the consent thereto of the person kidnapped or confined shall not be a defense, unless it appear satisfactorily to

the jury that such person was above the age of twelve years, and that the consent was not extorted by threats or duress.

3 R. S. 937, § 40.

**§ 214. Selling services of person of color.** A person who, within this state or elsewhere, sells or in any manner transfers, for any term, the services or labor of any person who has been forcibly taken, inveigled, or kidnapped in or from this state, is punishable by imprisonment in a state prison not exceeding ten years.

3 R. S. 937, § 42.

**§ 215. Removing from this state persons held to service in another state.** A person claiming that he or another is entitled to the services of a person alleged to be held to labor or service in a state or territory of the United States who, except as authorized by special statute, takes, or removes, or willfully does any act tending towards removing from this state any such person, is guilty of felony, punishable by imprisonment in the state prison not exceeding ten years, and by a penalty of five hundred dollars, recoverable in a civil action by the party aggrieved.

**§ 216. Penalty imposed on judicial officers.** A judge, or other public officer of this state who grants or issues any warrant, certificate or other process, in any proceeding for the removal from this state of any person claimed as held to labor or service in a state or territory of the United States, except in pursuance of the statute of this state, is guilty of a misdemeanor; and in addition to the punishment therefor prescribed by law, he forfeits five hundred dollars to the party aggrieved, recoverable in a civil action.

## CHAPTER V

### ASSAULTS.

**SECTION 217. Assault in first degree defined.**

218. Id.; in second degree.

219. Id.; in third degree.

220. Assault in first degree, how punished.

221. Id.; in second degree.

222. Id.; in third degree.

223. Use of force or violence, declared not unlawful, etc.

**§ 217. Assault in first degree defined.** A person who, with an intent to kill a human being, or to commit a felony upon the person or property of the one assaulted, or of another,

1. Assaults another with a loaded fire arm, or any other deadly weapon, or by any other means or force likely to produce death ; or

2. Administers to or causes to be administered to or taken by another, poison, or any other destructive or noxious thing, so as to endanger the life of such other ;

Is guilty of assault in the first degree.

2 R. S. 938, § 46.

§ 218. *Id.* ; in second degree. A person who, under circumstances not amounting to the crime specified in the last section,

1. With intent to injure, unlawfully administers to, or causes to be administered to, or taken by another, poison, or any other destructive or noxious thing, or any drug or medicine the use of which is dangerous to life or health ; or

2. With intent thereby to enable or assist himself or any other person to commit any crime, administers to or causes to be administered to, or taken by another, chloroform, ether, laudanum, or any other intoxicating narcotic, or anesthetic agent ; or

3. Willfully and wrongfully wounds or inflicts grievous bodily harm upon another, either with or without a weapon ; or

4. Willfully and wrongfully assaults another by the use of a weapon, or other instrument or thing likely to produce grievous bodily harm ; or

5. Assaults another with intent to commit a felony, or to prevent or resist the execution of any lawful process or mandate of any court or officer, or the lawful apprehension or detention of himself or of any other person ;

Is guilty of assault in the second degree.

§ 219. *Id.* ; in third degree. A person who commits an assault, or an assault and battery, not such as is specified in the foregoing sections of this chapter, is guilty of assault in the third degree.

§ 220. [*am'd 1892.*] Assault in first degree, how punishable. Assault in the first degree is punishable by imprisonment for a term not exceeding ten years.

2 R. S. 938, § 46.

§ 221. [*am'd 1892.*] *Id.* ; in second degree. Assault in the second degree is punishable by imprisonment in a penitentiary or state prison for a term not exceeding five years, or by a fine of not more than one thousand dollars, or both.

*Id.*

§ 222. *Id.* ; in third degree. Assault in the third degree is punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars, or both.

**§ 223. Use of force or violence, declared not unlawful, etc.**  
To use or attempt, or offer to use, force or violence upon or towards the person of another is not unlawful in the following cases :

1. When necessarily committed by a public officer in the performance of a legal duty ; or by any other person assisting him or acting by his direction ,

2. When necessarily committed by any person in arresting one who has committed a felony, and delivering him to a public officer competent to receive him in custody ;

3. When committed either by the party about to be injured or by another person in his aid or defense, in preventing or attempting to prevent an offense against his person, or a trespass or other unlawful interference with real or personal property in his lawful possession, if the force or violence used is not more than sufficient to prevent such offense ;

4. When committed by a parent or the authorized agent of any parent, or by any guardian, master, or teacher, in the exercise of a lawful authority to restrain or correct his child, ward, apprentice or scholar, and the force or violence used is reasonable in manner and moderate in degree ;

5. When committed by a carrier of passengers, or the authorized agents or servants of such carrier, or by any person assisting them, at their request, in expelling from a carriage, railway car, vessel or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force or violence used is not more than sufficient to expel the offending passenger, with a reasonable regard to his personal safety ;

6. When committed by any person in preventing an idiot, lunatic, insane person, or other person of unsound mind, including persons temporarily or partially deprived of reason, from committing an act dangerous to himself or to another, or in enforcing such restraint as is necessary for the protection of his person or for his restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint or custody of his person.

## CHAPTER VI.

### ROBBERY.

- § 224. Robbery defined.**  
**225. How force or fear must be employed.**  
**226. Degree of force immaterial.**  
**227. Taking property secretly not robbery.**  
**228. Robbery in first degree.**  
**229. Id.; second degree.**  
**230. Id.; third degree.**  
**231. Punishment of robbery in first degree.**  
**232. Id.; in second degree.**  
**233. Id.; in third degree.**

**§ 224. Robbery defined.** Robbery is the unlawful taking of personal property, from the person or in the presence of another, against his will, by means of force, or violence, or fear of injury, immediate or future, to his person or property, or the person or property of a relative or member of his family, or of any one in his company at the time of the robbery.

§ R. S. 251, § 69.

**§ 225. How force or fear must be employed.** To constitute robbery, the force or fear must be employed either to obtain or retain possession of the property or to prevent or overcome resistance to the taking. If employed merely as a means of escape it does not constitute robbery.

**§ 226. Degree of force immaterial.** When force is employed in either of the ways specified in the last section, the degree of force employed is immaterial.

**§ 227. Taking property secretly not robbery.** The taking of property from the person of another is robbery, when it appears that although the taking was fully completed without his knowledge, such knowledge was prevented by the use of force or fear.

**§ 228. Robbery in first degree.** An unlawful taking or compulsion, if accomplished by force or fear, in a case specified in the foregoing sections of this chapter, is robbery in the first degree, when committed by a person,

1. Being armed with a dangerous weapon ; or
2. Being aided by an accomplice actually present ; or
3. When the offender inflicts grievous bodily harm or injury upon the person from whose possession, or in whose presence, the property is taken, or upon the wife, husband, servant, child, or

inmate of the family of such person, or any one in his company at the time, in order to accomplish the robbery.

§ 229. *Id.*; **second degree.** Such unlawful taking or compulsion, when accomplished by force or fear, in a case specified in the foregoing sections of this chapter, but not under circumstances amounting to robbery in the first degree, is robbery in the second degree, when accomplished either

1. By the use of violence ; or
2. By putting the person robbed in fear of immediate injury to his person or that of some one in his company.

§ R. S. 951, § 70.

§ 230. *Id.*; **third degree.** A person who robs another, under circumstances not amounting to robbery in the first or second degree, is guilty of robbery in the third degree.

§ 231. [*am'd 1892.*] **Punishment of robbery in first degree.** Robbery in the first degree is punishable by imprisonment for a term not exceeding twenty years.

§ R. S. 951, § 71.

§ 232. [*am'd 1892.*] *Id.*; **in second degree.** Robbery in the second degree is punishable by imprisonment for a term not exceeding fifteen years.

§ 233. *Id.*; **in third degree.** Robbery in the third degree is punishable by imprisonment for not more than ten years.

## CHAPTER VII.

### DUELS AND CHALLENGES.

**SECTION 234.** **Dueling, defined and punished.**

235. Challenger, abettor, etc.

236. Challenge defined.

237. Attempts to induce a challenge.

238. Posting for not fighting.

239. Duel outside of state.

240. Where such person may be indicted and tried.

241. Witnesses.

§ 234. [*am'd 1892.*] **Dueling, defined and punished.** A person who fights a duel, or engages in any combat with another, with deadly weapons, by previous agreement, or upon a previous quarrel, although no death or wound ensues, is punishable by imprisonment for a term not exceeding ten years. A person convicted under this section is thereafter incapable of holding, or of being elected or ap-

pointed to any office or place of trust or emolument, civil or military, within the state.

§ R. S. 962, §§ 1, 4.

**§ 235. Challenger, abettor, etc.** A person who challenges another to fight a duel, or who sends a written or verbal message, purporting or intended to be a challenge to fight a duel, or an invitation to a combat with deadly weapons, or who accepts such a challenge or message, or who knowingly carries or delivers such a challenge or message, or who is present at the time appointed for such a duel or combat, or when such a duel or combat, is fought, either as second, aid, or surgeon, or who advises or abets, or gives any countenance or assistance to such a duel or combat upon previous agreement, is punishable by imprisonment for not more than seven years.

§ R. S. 962, § 2.

**§ 236. Challenge defined.** Any word, spoken or written, or any sign, uttered or made to any person, expressing or implying, or intended to express or imply, a desire, request, invitation, or demand, to fight a duel, or to meet for the purpose of fighting a duel, is deemed a challenge.

**§ 237. Attempts to induce a challenge.** A person guilty of sending or using to another any word or sign whatever, with intent to provoke or induce such person to give or receive a challenge to fight a duel, is guilty of a misdemeanor.

**§ 238. Posting for not fighting.** A person who posts or advertises another for not fighting a duel, or for not sending or accepting a challenge to fight a duel, or who, in writing or in print, uses reproachful or contemptuous language to or concerning any one, for not sending or accepting a challenge to fight a duel, or for not fighting a duel, is guilty of a misdemeanor.

§ R. S. 972, § 19.

**§ 239. Duel outside of state.** A person who leaves this state with intent to elude any provision of this chapter, or to commit any act without this state, which is prohibited by this chapter, or who, being a resident of this state, does any act without this state, which would be punishable by the provisions of this chapter, if committed within this state, is guilty of the same offense, and subject to the same punishment, as if the act had been committed, or was to have been consummated within this state.

§ R. S. 963, § 5.

**§ 240. Where such person may be indicted and tried.** A person offending against any provision of the last section may be



indicted and tried in any county within this state; but the person so offending may plead a former conviction or acquittal in another state or country for the same offense, and if such plea is admitted or established, it shall be a bar to further proceedings against him, for such offense.

3 R. S. 963, §§ 6, 7.

§ 241. **Witnesses.** A person offending against any provision of this chapter is a competent witness against any other person offending in the same transaction, and must not be excused from testifying or answering any question, upon an investigation or trial for an offense under this chapter, upon the ground that his testimony might tend to convict him of a crime. But evidence given by a person so testifying, cannot be received against him, in any criminal action or proceeding.

3 R. S. 963, § 3.

## CHAPTER VIII.

### LIBEL.

#### SECTION 242. Libel defined.

243. Libel a misdemeanor.

244. Malice presumed, defense to prosecution.

245. Publication defined.

246. Liability of editors and others.

247. Publishing a true report of public official proceedings.

248. Qualification of last section.

249. Indictment against resident.

250. Id.; against non-resident.

251. Id.; punishment restricted.

252. Id.; power of court, place of trial.

253. Privileged communications.

254. Threatening to publish libel.

§ 242. **Libel defined.** A malicious publication, by writing, printing, picture, effigy, sign or otherwise than by mere speech, which exposes any living person, or the memory of any person deceased, to hatred, contempt, ridicule or obloquy, or which causes, or tends to cause any person to be shunned or avoided, or which has a tendency to injure any person, corporation or association of persons, in his or their business or occupation, is a libel.

§ 243. **Libel a misdemeanor.** A person who publishes a libel, is guilty of a misdemeanor.

§ 244. **Malice presumed, defense to prosecution.** A publication having the tendency or effect, mentioned in section 242, is to be deemed malicious, if no justification or excuse therefor is shown. *The publication is justified when the matter charged as libelous is*

true, and was published with good motives and for justifiable ends. The publication is excused when it is honestly made, in the belief of its truth and upon reasonable grounds for this belief, and consists of fair comments upon the conduct of a person in respect of public affairs, or upon a thing which the proprietor thereof offers or explains to the public.

**§ 245. Publication defined.** To sustain a charge of publishing a libel, it is not necessary that the matter complained of should have been seen by another. It is enough that the defendant knowingly displayed it, or parted with its immediate custody, under circumstances which exposed it to be seen or understood by another person than himself.

**§ 246. Liability of editors and others.** Every editor or proprietor of a book, newspaper or serial, and every manager of a partnership or incorporated association, by which a book, newspaper or serial is issued, is chargeable with the publication of any matter contained in such book, newspaper or serial. But in every prosecution for libel the defendant may show in his defense that the matter complained of was published without his knowledge or fault and against his wishes, by another who had no authority from him to make the publication and whose act was disavowed by him so soon as known.

**§ 247. Publishing a true report of public official proceedings.** A prosecution for libel cannot be maintained against a reporter, editor, publisher, or proprietor of a newspaper, for the publication therein, of a fair and true report of any judicial, legislative or other public and official proceeding, or of any statement, speech, argument or debate in the course of the same, without proving actual malice in making the report.

3 R. S. 102C, § 84.

**§ 248. Qualification of last section.** The last section does not apply to a libel contained in the heading of the report, or in any other matter added by any other person concerned in the publication; or in the report of any thing said or done at the time and place of the public and official proceeding, which was not a part thereof.

3 R. S. 102C, § 85.

**§ 249. Indictment against resident.** An indictment for a libel, contained in a newspaper published within this state, against a resident thereof, may be found either in the county where the paper was published, or in the county where the person libeled resided when the offense was committed. In the latter case the defendant is entitled to an order of the supreme court, directing the indictment against him to be tried in the county in which the paper was printed and published, upon compliance with the following conditions:

1. He must apply for the order within thirty days after being committed upon, or giving bail to answer, the indictment ;

2. He must execute a bond to the complainant, with two sufficient sureties, approved by the judge hearing his application, in a penal sum fixed by the judge, not less than two hundred and fifty nor more than one thousand dollars, conditioned for the payment, in case the defendant is convicted, of all the complainant's reasonable expenses in going to and from his place of residence and the place of trial, and in attendance upon the trial ;

3. He must, within ten days after the granting of the order, file the order and deposit the bond with the clerk of the county in which the indictment is pending.

§ 250. *Id.*; **against non-resident.** An indictment for a libel published against a person not a resident of this state, must be found and tried in the county where the paper containing the libel purports upon its face to be published ; or, if no county is indicated upon the face of the paper, in any county where the paper was circulated.

§ 251. *Id.*; **punishment restricted.** A person cannot be indicted or tried for the publication of the same libel, against the same person, in more than one county.

§ 252. *Id.*; **power of court, place of trial.** Nothing contained in this chapter shall be construed to abridge, or in any manner affect, the power of a competent court, to change the place of trial of an indictment for libel, in the same manner as may lawfully be done, in respect to any other indictment.

§ 253. **Privileged communications.** A communication made to a person entitled to, or interested in, the communication by one who was also interested in or entitled to make it, or who stood in such a relation to the former as to afford a reasonable ground for supposing his motive innocent, is presumed not to be malicious, and is called a privileged communication.

§ 254. **Threatening to publish libel.** A person who threatens another with the publication of a libel, concerning the latter or concerning any parent, husband, wife, child or other member of the family of the latter, and a person who offers to prevent the publication of a libel upon another person upon condition of the payment of, or with intent to extort, money or other valuable consideration from any person, is guilty of a misdemeanor.

§ 254a. [*added 1890, and 1894.*] **Furnishing libelous information.** Any person who wilfully states, delivers or transmits by any means whatever to any manager, editor, publisher, reporter or other employe of a publisher of any newspaper, magazine, publication, periodical or serial any statement concerning any person or corporation which, if published therein, would be a libel, is guilty of a *misdemeanor*.

## TITLE X.

OF CRIMES AGAINST THE PERSON AND AGAINST PUBLIC DECENCY  
AND GOOD MORALS.

- CHAPTER I. Crimes against religious liberty and conscience.
- II. Rape, abduction, carnal abuse of children, and seduction.
  - III. Abandonment and neglect of children.
  - IV. Abortions and concealing death of infant.
  - V. Bigamy, incest and the crime against nature.
  - VI. Violating sepulture and the remains of the dead.
  - VII. Indecent exposures, obscene exhibitions, books and prints and disorderly houses
  - VIII. Lotteries.
  - IX. Gaming.
  - X. Pawnbrokers.

## CHAPTER I.

## OF CRIMES AGAINST RELIGIOUS LIBERTY AND CONSCIENCE.

- SECTION 255. Profane swearing defined.
- 256. Punishment of profane swearing.
  - 257. Summary conviction for profane swearing.
  - 258. Penalties, how collected.
  - 259. The Sabbath.
  - 260. Sabbath breaking.
  - 261. Day defined.
  - 262. Acts forbidden.
  - 263. Labor prohibited.
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  - 265. Public sports.
  - 266. Trades, manufactures, and mechanical employments.
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  - 268. Serving process.
  - 269. Punishment of Sabbath breaking.
  - 270. Forfeiture of commodities exposed for sale.
  - 271. Remedy for maliciously serving process.
  - 272. Compelling adoption of a form of belief.
  - 273. Preventing performance of religious act.
  - 274. Disturbing religious meeting.
  - 275. Definition of the offense.
  - 276. Processions and parades.
  - 277. Theatrical and other performances.

§ 255. Repealed, 1883.

§ 256. Repealed, 1883.

§ 257. Repealed, 1883.

§ 258. Repealed, 1883.

**§ 259. The Sabbath.** The first day of the week being by general consent set apart for rest and religious uses, the law prohibits the doing on that day of certain acts hereinafter specified, which are serious interruptions of the repose and religious liberty of the community.

**§ 260. Sabbath breaking.** A violation of the foregoing prohibition is Sabbath breaking.

**§ 261. Day defined.** Under the term "day," as employed in the phrase "first day of the week," when used in this chapter, is included all the time from midnight to midnight.

**§ 262. Repealed, 1882.**

**§ 263. Labor prohibited.** All labor on Sunday is prohibited, excepting the works of necessity and charity. In works of necessity or charity is included whatever is needful during the day for the good order, health or comfort of the community.

**§ 264. Persons observing another day as a Sabbath.** It is a sufficient defense to a prosecution for work or labor on the first day of the week, that the defendant uniformly keeps another day of the week as holy time, and does not labor on that day, and that the labor complained of was done in such manner as not to interrupt or disturb other persons in observing the first day of the week as holy time.

**§ 265. Public sports.** All shooting, hunting, fishing, playing, horse-racing, gaming or other public sport, exercises or shows, upon the first day of the week, and all noise disturbing the peace of the day, are prohibited.

**§ 266. Trades, manufactures, and mechanical employments.** All trades, manufactures, agricultural or mechanical employments upon the first day of the week are prohibited, except that when the same are works of necessity, they may be performed on that day, in their usual and orderly manner, so as not to interfere with the repose and religious liberty of the community

**§ 267. Public traffic.** All manner of public selling or offering for sale of any property upon Sunday is prohibited, except that articles of food may be sold and supplied at any time before ten o'clock in the morning, and except also that meals may be sold to be eaten on the premises where sold or served elsewhere by caterers; and prepared tobacco in places other than where spirituous or malt liquors or wines are kept or offered for sale, and fruit, confectionery,

newspapers, drugs, medicines, and surgical appliances may be sold in a quiet and orderly manner at any time of the day.

§ 268. [*am'd 1892.*] **Serving process.** All service of legal process, of any kind whatever, on the first day of the week is prohibited, except in cases of breach of the peace or apprehended breach of the peace or when sued out for the apprehension of a person charged with crime, or except where such service is specially authorized by statute. Service of any process upon said day except as herein permitted is absolutely void for any and every purpose whatsoever.

§ 269. [*am'd 1887.*] **Sabbath breaking.** Sabbath breaking is a misdemeanor, punishable by a fine not less than \$5 and not more than \$10, or by imprisonment in a county jail not exceeding five days, or by both, but for a second or other offense, where the party shall have been previously convicted, it shall be punishable by a fine not less than \$10 and not more than \$20, and by imprisonment in a county jail not less than five nor more than twenty days.

§ 270. **Forfeiture of commodities exposed for sale.** In addition to the penalty imposed by the last section, all property and commodities exposed for sale on the first day of the week in violation of the provisions of this chapter shall be forfeited. Upon conviction of the offender by a justice of the peace of a county, or by any police justice or magistrate, or by a mayor, recorder or alderman of a city, such officer shall issue a warrant for the seizure of the forfeited articles, which, when seized, shall be sold on one day's notice, and the proceeds paid to the overseers of the poor, for the use of the poor of the town or city.

2 R. S. 929, § 85.

§ 271. **Remedy for maliciously serving process.** Whoever maliciously procures any process in a civil action to be served on Saturday, upon any person who keeps Saturday as holy time, and does not labor on that day, or serves upon him any process returnable on that day, or maliciously procures any civil action to which such person is a party to be adjourned to that day for trial, is guilty of a misdemeanor.

3 E. S. 929, §§ 88, 89.

§ 272. **Compelling adoption of a form of belief.** An attempt by means of threats or violence, to compel any person to adopt, practice or profess a particular form of religious belief, is a misdemeanor.

§ 273. **Preventing performance of religious act.** A person who willfully prevents by threats or violence another person from performing any lawful act enjoined upon or recommended to such person by the religion which he professes, is guilty of a ~~misdemeanor~~.  
**misdemeanor.**

**§ 274. Disturbing religious meetings.** A person who willfully disturbs, interrupts or disquiets any assemblage of people met for religious worship, by any of the acts enumerated in the next section, is guilty of a misdemeanor.

**§ 275. [am'd 1893.] Definition of the offense.** The following acts, or any of them, except as permitted by chapter four hundred and seventy-nine of the laws of eighteen hundred and eighty-seven or the acts amendatory thereof, constitute a disturbance of a religious meeting:

1. Uttering any profane discourse, committing any rude or indecent act, or making any unnecessary noise, either within the place where such meeting is held, or so near it as to disturb the order and solemnity of the meeting.

2. Engaging in, or promoting, within two miles of the place where a religious meeting is held, any racing of animals or gambling of any description; or elsewhere than in a city or village keeping open any huckster shop, inn, store or grocery, in any other place than that in which such business shall have usually been carried on; or elsewhere than in a city exhibiting within the distance aforesaid any shows or plays, unless the same shall have been duly licensed by the proper authorities.

3. Obstructing in any manner without authority of law, within the like distance, free passage along a highway to the place of such meeting.

**§ 276. Processions and parades.** All processions and parades on Sunday in any city, excepting only funeral processions for the actual burial of the dead, and processions to and from a place of worship in connection with a religious service there celebrated, are forbidden; and in such excepted cases there shall be no music, fire-works, discharge of cannon or fire-arms, or other disturbing noise. At a military funeral and at the burial of a national guardsman or of a deceased member of an association of veteran soldiers, or of a disbanded militia regiment, music may be played while escorting the body, but not within one block of a place of worship where service is then celebrated. A person willfully violating any provisions of this section is punishable by a fine not exceeding twenty dollars, or imprisonment not exceeding ten days, or by both.

**§ 277. Theatrical and other performances.** The performance of any tragedy, comedy, opera, ballet, farce, negro minstrelsy, negro or other dancing, wrestling, boxing with or without gloves, sparring contest, trial of strength, or any part or parts therein, or any circus, equestrian or dramatic performance or exercise or any performance or exercise of jugglers, acrobats, club performances or rope dancers on the first day of the week is forbidden; and every person aiding in such exhibition, performance or exercise by advertisement, posting or otherwise, and every owner or lessee of any garden, building or other room, place or structure, who leases or lets the same for the purpose of any such exhibition, performance or exercise, or who

assents to the use of the same, for any such purpose, if it be so used, is guilty of a misdemeanor. In addition to the punishment therefor provided by statute, every person violating this section is subject to a penalty of five hundred dollars, which penalty "The Society for the Reformation of Juvenile Delinquents" in the city of New York, for the use of that society, and the overseers of the poor in any other city or town, for the use of the poor, are authorized, in the name of the people of this State, to recover. Besides this penalty, every such exhibition, performance or exercise, of itself, annuls any license which may have been previously obtained by the manager, superintendent, agent, owner or lessee, using or letting such building, garden, room, place or other structure, or consenting to such exhibition, performance or exercise.

2 R. S. § 30, §§ 95, 96.

## CHAPTER II.

### RAPE, ABDUCTION, CARNAL ABUSE OF CHILDREN, AND SEDUCTION.

#### SECTION 278. Rape defined.

279. When physical ability must be proved.

280. Penetration sufficient.

281. Compelling woman to marry.

282. Abduction.

283. No conviction on certain testimony.

284. Seduction under promise of marriage.

285. Subsequent marriage.

286. No conviction on certain testimony.

§ 278. [*am'd* 1887, 1892.] **Rape defined.** A person who perpetrates an act of sexual intercourse with a female not his wife, against her will or without her consent, or,

1. When through idiocy, imbecility or any unsoundness of mind, either temporary or permanent, she is incapable of giving consent, or, by reason of mental or physical weakness, or immaturity, or any bodily ailment, she does not offer resistance; or,

2. When her resistance is forcibly overcome; or,

3. When her resistance is prevented by fear of immediate and great bodily harm, which she has reasonable cause to believe will be inflicted upon her; or,

4. When her resistance is prevented by stupor, or weakness of mind produced by an intoxicating, or narcotic, or anæsthetic agent; or, when she is known by the defendant to be in such state of stupor or weakness of mind from any cause; or,

5. When she is, at the time, unconscious of the nature of the act, and this is known to the defendant; or when she is in custody of the law, or of any officer thereof, or in any place of lawful detention, temporary or permanent, is guilty of rape in the first degree and punishable by imprisonment for not more than twenty years. A person who perpetrates an act of sexual intercourse with a female, not his wife, under the age of sixteen years, under circumstances not amount-



ing to rape in the first degree, is guilty of rape in the second degree, and punishable with imprisonment for not more than ten years.

§ 279. **When physical ability must be proved.** No conviction for rape can be had against one who was under the age of fourteen years, at the time of the act alleged, unless his physical ability to accomplish penetration is proved as an independent fact, beyond a reasonable doubt.

§ 280. **Penetration sufficient.** Any sexual penetration, however slight, is sufficient to complete the crime.

§ 281. [*am'd 1892.*] **Compelling woman to marry.** A person who by force, menace or duress, compels a woman against her will to marry him, or to marry any other person, or to be defiled, is punishable by imprisonment for a term not exceeding ten years, or by a fine of not more than one thousand dollars, or by both.

§ 282. **Abduction.** A person who,

1. Takes, receives, employs, harbors or uses, or causes or procures to be taken, received, employed, harbored or used, a female under the age of sixteen years, for the purpose of prostitution; or, not being her husband, for the purpose of sexual intercourse; or, without the consent of her father, mother, guardian or other person having legal charge of her person, for the purpose of marriage; or,

2. Inveigles or entices an unmarried female of previous chaste character into a house of ill-fame, or of assignation, or elsewhere, for the purpose of prostitution or sexual intercourse; or,

3. Takes or detains a female unlawfully against her will, with the intent to compel her by force, menace or duress to marry him, or to marry another person, or to be defiled; or,

4. Being parent, guardian or other person having legal charge of the person of a female under the age of sixteen years, consents to her taking or detaining by any person for the purpose of prostitution or sexual intercourse;

Is guilty of abduction, and punishable by imprisonment for not more than five years, or by a fine of not more than one thousand dollars, or by both.

§ 283. **No conviction on certain testimony.** No conviction can be had for abduction, compulsory marriage, rape or defilement, upon the testimony of the female abducted, compelled or defiled, unsupported by other evidence.

§ 284. **Seduction under promise of marriage.** A person who, under promise of marriage, seduces and has sexual intercourse with an unmarried female of previous chaste character, is punishable by imprisonment for not more than five years, or by a fine of not more than one thousand dollars, or by both.

§ 285. **Subsequent marriage.** The subsequent intermarriage of the parties, or the lapse of two years after the commission of the offense before the finding of an indictment, is a bar to a prosecution for a violation of the last section.

§ 286. **No conviction on certain testimony.** No conviction can be had for the offense specified in section 284, upon the testimony of the female seduced, unsupported by other evidence<sup>a</sup>.

### CHAPTER III.

#### ABANDONMENT AND OTHER ACTS OF CRUELTY TO CHILDREN. |

SECTION 287. Abandonment of child under six years.

288. Unlawfully omitting to provide for child.

289. Endangering life or health of child.

290. Keepers of concert saloons, etc.

290a. Boarding infants without license.

291. Children not to beg, etc.

292. Certain employment of a child.

292a. Penalty for sending messenger boys to certain places.

292b. Taking apprentice without consent of guardian.

293. Duty of officers of society.

§ 287. [*am'd 1892.*] **Abandonment of child under six years.** A parent or other person having the care or custody, for nurture or education, of a child under the age of six years, who deserts the child in any place, with intent wholly to abandon it, is punishable by imprisonment for not more than seven years.

§ 288. [*am'd 1888, 1892.*] **Unlawfully omitting to provide for child.** A person who

1. Willfully omits, without lawful excuse, to perform a duty by law imposed upon him to furnish food, clothing, shelter or medical attendance as may have been required by the order of a court or magistrate when such minor has been committed to an institution; or,

2. Not being a superintendent of the poor, or a superintendent of alms-houses, or an institution duly incorporated for the purpose, without having first obtained a license in writing so to do from the board of health of the city or town wherein such females or children are received, boarded or kept, erects, conducts, establishes or maintains any maternity hospital, lying-in asylum where females may be received, cared for or treated during pregnancy, or during or after delivery. or receives, boards or keeps any nursing children, or any children under the age of twelve years not his relatives, apprentices, pupils or wards without legal commitment; or,

3. Being a midwife, nurse or other person having the care of an infant within the age of two weeks neglects or omits to report immediately to the health officer or to a legally qualified practitioner of *medicine of the city, town or place where such child is being cared for, the fact that one or both eyes of such infant are inflamed or reddened whenever such shall be the case, or who applies any remedy*

therefor without the advice, or except by the direction of such officer or physician; or,

4. Neglects, refuses or omits to comply with any provisions of this section, or who violates the provisions of such license, is guilty of a misdemeanor. Every such license must specify the name and residence of the person so undertaking the care of such females or children, and the place and the number of females or children thereby allowed to be received, boarded and kept therein, and shall be revocable at will by the authority granting it. Every person so licensed must keep a register wherein he shall enter the names and ages of all such children and of all children born on said premises, and the names and residences of their parents, as far as known, the time of the reception and discharge of such children and the reasons therefor, and also a correct register of the name and age of every child under the age of five years who is given out, adopted, taken away or indentured from such place to or by any one, together with the name and residence of the person so adopting, taking or indenturing such child; and shall cause a correct copy of such register to be sent to the authority issuing such license within forty-eight hours after such child is so given out, adopted, taken away or indentured. It shall be lawful for the officers of any incorporated society for the prevention of cruelty to children and of such board of health at all reasonable times to enter and inspect the premises wherein such females and children are so boarded, received or kept, and also such license, register and the children.

5. [added 1894.] No institution shall be incorporated for any of the purposes mentioned in this section except with the written consent and approbation of a justice of the supreme court, upon the certificate in writing of the state board of charities approving of the organization and incorporation of such institution. The said board of charities may apply to the supreme court for the cancellation of any certificate of incorporation previously filed without its approval; and may institute and maintain an action in such court through the attorney-general to procure a judgment dissolving any such corporation not so incorporated and forfeiting its corporate rights, privileges and franchises.

§ 289. [am'd 1888.] **Endangering life or health of child.** A person who,

1. Willfully causes or permits the life or limb of any child actually or apparently under the age of sixteen years to be endangered, or its health to be injured, or its morals to become depraved ; or,

2. Willfully causes or permits such child to be placed in such a situation or to engage in such an occupation that its life or limb is endangered, or its health is likely to be injured, or its morals likely to be impaired, is guilty of a misdemeanor.

§ 290. [am'd 1889.] **Permitting children to attend certain resorts.** A person who,

1. Admits to or allows to remain in any dance-house, concert saloon, theater, museum, skating rink, or in any place where wines or spirituous or malt liquors are sold or given away, or in any place of entertainment injurious to health or morals, owned, kept or managed by him in whole or in part, any child actually or apparently under the age of sixteen years, unless accompanied by its parent or guardian ; or,

2. Suffers or permits any such child to play any game of skill or chance in any such place, or in any place adjacent thereto, or to be or remain therein, or admits to or allows to remain in any reputed house of prostitution or assignation, or in any place where opium or any preparation thereof is smoked, any child actually or apparently under the age of sixteen years; or,

3. Sells or gives away, or causes or permits or procures to be sold or given away to any child actually or apparently under the age of sixteen years any beer, ale, wine, or any strong or spirituous liquor; or,

4. Being a pawnbroker or person in the employ of a pawnbroker, makes any loan or advance or permits to be loaned or advanced to any child actually or apparently under the age of sixteen years any money, or in any manner directly or indirectly receives any goods, chattels, wares or merchandise from any such child in pledge for loans made or to be made to it or to any other person or otherwise howsoever; or,

5. Sells, pays for or furnishes any cigar, cigarette or tobacco in any of its forms to any child actually or apparently under the age of sixteen years;

Is guilty of a misdemeanor.

7. [added 1890.] No child actually or apparently under sixteen years of age shall smoke or in any way use any cigar, cigarette or tobacco in any form whatsoever in any public street, place or resort. A violation of this subdivision shall be a misdemeanor, and shall be punished by a fine not less than \$2 for each offense.

§ 290a. [added 1893. Repealed 1894.]

§ 291. *Children not to beg, etc.* Any child actually or apparently under the age of sixteen years who is found

1. Begging or receiving or soliciting alms, in any manner or under any pretense; or gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or

2. Not having any home or other place of abode or proper guardianship ; or who has been abandoned or improperly exposed or neglected, by its parents or other person or persons having it in charge, or being in a state of want or suffering ; or

3. Destitute of means of support, being an orphan, or living or having lived with or in custody of a parent or guardian who has been sentenced to imprisonment for crime, or who has been convicted of a crime against the person of such child, or has been adjudged an habitual criminal ; or

4. Frequenting or being in the company of reputed thieves or prostitutes, or in a reputed house of prostitution or assignation, or living in such a house either with or without its parent or guardian, or being in concert saloons, dance houses, theatres, museums or other places of entertainment, or places where wines, malt or spirituous liquors are sold, without being in charge of its parent or guardian ; or playing any game of chance or skill in any place wherein or adjacent to which any beer, ale, wine or liquor is sold or given away, or being in any such place ; or

5. [am'd 1888.] Coming within any of the descriptions of children mentioned in section two hundred and ninety-two, must be

arrested and brought before a proper court or magistrate, who may commit the child to any incorporated charitable reformatory, or other institution, and when practicable, to such as is governed by persons of the same religious faith as the parents of the child, or may make any disposition of the child such as now is, or hereafter may be, authorized in the cases of vagrants, truants, paupers or disorderly persons, but such commitment shall, so far as practicable, be made to such charitable or reformatory institutions. Whenever any child shall be committed to an institution under this code, and the warrant or commitment shall so state, and it shall appear therefrom that either parent, or any guardian or custodian of such child, was present at the examination before such court or magistrate, or had such notice thereof as was by such court or magistrate deemed and adjudged sufficient, no further or other notice required by any local or special statute, in regard to the committal of children to such institution, shall be necessary, and such commitment shall in all respects be sufficient to authorize such institution to receive and retain such child in its custody as therein directed. Whenever any commitment of a child shall for reason be adjudged or found defective, a new commitment of the child may be made or directed by the court or magistrate, as the welfare of the child may require. And no commitment of a child which shall recite therein the facts upon which it is based shall be deemed invalid by reason of any omission of the court or magistrate by whom such commitment is made to file any documents, papers or proceedings relating thereto, or by reason of any limitation as to the age of the child committed, contained in the act or articles of incorporation of the institution to which it may have been committed.

6. [am'd 1892.] Any magistrate having criminal jurisdiction may commit, temporarily, to an institution authorized by law to receive children on final commitment, and to have compensation therefor from the city or county authorities, any child under the age of sixteen years, who is held for trial on a criminal charge; and may, in like manner, so commit any such child held as a witness to appear on the trial of any criminal case; which institution shall thereupon receive the same, and be entitled to the like compensation proportionally therefor as on final commitment, but subject to the order of the court as to the time of detention and discharge of the child. Any such child convicted of any misdemeanor shall be finally committed to some such institution, and not to any prison or jail, or penitentiary, longer than is necessary for its transfer thereto. No child under restraint or conviction, actually or apparently under the age of sixteen years, shall be placed in any prison or place of confinement, or in any court-room, or in any vehicle for transportation in company with adults charged with or convicted of crime.

7. [added 1892.] All cases involving the commitment or trial of children for any violation of the Penal Code, in any police court or court of special sessions, may be heard and determined by such court, at suitable times to be designated therefor by it, separate and apart from the trial of other criminal cases, of which session a separate docket and record shall be kept.

§ 292. [am'd 1892.] **Certain employment of a child.** A person who employs or causes to be employed, or who exhibits, uses, or has in custody, or trains for the purpose of the exhibition, use or employment of, any child actually or apparently under the age of sixteen years; or who having the care, custody or control of such a child as parent, relative, guardian, employer or otherwise, sells, lets out, gives away, so trains, or in any way procures or consents to the employment, or to such training, or use, or exhibition of such child; or who neglects or refuses to restrain such child from such training, or from engaging or acting, either

1. As a rope or wire walker, gymnast, wrestler, contortionist, rider or acrobat; or upon any bicycle or similar mechanical vehicle or contrivance; or

2. In begging or receiving or soliciting alms in any manner or under any pretense, or in any mendicant occupation; or in gathering or picking rags, or collecting cigar stumps, bones or refuse from markets; or in peddling; or

3. In singing; or dancing; or playing upon a musical instrument; or in a theatrical exhibition; or in any wandering occupation; or

4. In any illegal, indecent or immoral exhibition or practice; or in the exhibition of any such child when insane, idiotic, or when presenting the appearance of any deformity or unnatural physical formation or development; or

5. In any practice or exhibition or place dangerous or injurious to the life, limb, health or morals of the child, is guilty of a misdemeanor. But this section does not apply to the employment of any child as a singer or musician in a church, school or academy; or in teaching or learning the science or practice of music; or as a musician in any concert or in a theatrical exhibition, with the written consent of the mayor of the city, or the president of the board of trustees of the village where such concert or exhibition takes place. Such consent shall not be given unless forty-eight hours previous notice of the application shall have been served in writing upon the society mentioned in section two hundred and ninety-three of the Penal Code, if there be one within the county, and a hearing had thereon if requested, and shall be revocable at the will of the authority giving it. It shall specify the name of the child, its age, the names and residence of its parents or guardians, the nature, time, duration and number of performances permitted, together with the

place and character of the exhibition. But no such consent shall be deemed to authorize any violation of the first, second, fourth or fifth subdivisions of this section.

§ 292a. [added 1893]. **Penalty for sending messenger boys to certain places.** A corporation or person employing messenger boys who:

1. Knowingly places or permits to remain in a disorderly house, or in an unlicensed saloon, inn, tavern or other unlicensed place where malt or spirituous liquors or wines are sold, any instrument or device by which communication may be had between such disorderly house, saloon, inn, tavern or unlicensed place, and any office or place of business of such corporation or person; or

2. Knowingly sends or permits any person to send any messenger boy to any disorderly house, unlicensed saloon, inn, tavern, or other unlicensed place, where malt or spirituous liquors or wines are sold, on any errand or business whatsoever except to deliver telegrams at the door of such house, is guilty of a misdemeanor, and incurs a penalty of fifty dollars to be recovered by the district attorney.

§ 292b. [added 1893]. **Taking apprentice without consent of guardian.** A person who takes an apprentice without having first obtained the consent of his legal guardian or unless a written agreement has been entered into as prescribed by law, is guilty of a misdemeanor.

§ 293. [am'd 1888.] **Duty of officers of society.** A constable or police officer must, and any agent or officer of any incorporated society for the prevention of cruelty to children may arrest and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of this chapter and any minor coming within any of the descriptions of children mentioned in section two hundred and ninety-one, or in section two hundred and ninety-two. Such constable, police officer or agent may interfere to prevent the perpetration in his presence of any act forbidden by this chapter. A person who obstructs or interferes with any officer or agent of such society in the exercise of his authority under this chapter, is guilty of a misdemeanor. All fines, penalties and forfeitures imposed or collected for a violation of the provisions of this code, or of any act relating to, or affecting children, now in force or hereafter passed, must be paid on demand to the incorporated Society for the Prevention of Cruelty to Children in every case where the prosecution shall be instituted or conducted by such a society; and any such payment heretofore made to any such society may be retained by it.

## CHAPTER IV.

### ABORTION AND CONCEALING DEATH OF INFANT.

§ 294. Abortion defined.

295. Killing of child in miscarriage.

§ 296. Concealing birth.

297. Selling drugs, etc.

§ 294. **Abortion defined.** A person who, with intent thereby to procure the miscarriage of a woman, unless the same is necessary to preserve the life of the woman, or of the child with which she is pregnant, either

1. Prescribes, supplies, or administers to a woman, whether pregnant or not, or advises or causes a woman to take any medicine, drug, or substance; or

2. Uses, or causes to be used, any instrument or other means ;

Is guilty of abortion, and is punishable by imprisonment in a state prison for not more than four years, or in a county jail for not more than one year.

**§ 295. Killing of child in attempting miscarriage.** A pregnant woman, who takes any medicine, drug or substance, or uses or submits to the use of any instrument or other means, with intent thereby to produce her own miscarriage, unless the same is necessary to preserve her life, or that of the child whereof she is pregnant, is punishable by imprisonment for not less than one year, nor more than four years.

**§ 296. Concealing birth.** A person who endeavors to conceal the birth of a child, by any disposition of the dead body of the child, whether the child died before or after its birth, is guilty of a misdemeanor.

**§ 297. Selling drugs, etc.** A person who manufactures, gives or sells an instrument, a medicine or drug, or any other substance, with intent that the same may be unlawfully used in procuring the miscarriage of a woman, is guilty of a felony.

## CHAPTER V.

### BIGAMY, INCEST AND THE CRIME AGAINST NATURE.

**SECTION 298.** Bigamy defined; how punished.

299. Exceptions.

300. Indicting for bigamy.

301. Punishment of consort.

302. Incest.

303. Crime against nature.

304. Penetration sufficient.

**§ 298. Bigamy defined; how punished.** A person who, having a husband or wife living, marries another person, is guilty of bigamy and is punishable by imprisonment in a penitentiary or state prison for not more than five years.

**§ 299. Exceptions.** The last section does not extend,

1. To a person whose former husband or wife has been absent for five years successively then last past, without being known to him or her within that time to be living, and believed by him or her to be dead; or

2. To a person whose former marriage has been pronounced void, or annulled, or dissolved, by the judgment of a court of competent jurisdiction, for a cause other than his or her adultery; or

3. To a person who, being divorced for his or her adultery, has received from the court which pronounced the divorce, permission to marry again; or

4. To a person whose former husband or wife has been sentenced to imprisonment for life.

**§ 300. Indicting for bigamy.** An indictment for bigamy may be found in the county in which the defendant is arrested, and the like proceedings, including the trial, judgment and conviction, may be had in that county, as if the offense were committed therein.

**§ 301. Punishment of consort.** A person who knowingly enters into a marriage with another, which is prohibited to the latter by the



foregoing provisions of this chapter, is punishable by imprisonment in a penitentiary or state prison for not more than five years, or by a fine of not more than one thousand dollars, or both.

§ 302. **Incest.** When persons, within the degrees of consanguinity, within which marriages are declared by law to be incestuous and void, intermarry or commit adultery or fornication with each other, each of them is punishable by imprisonment for not more than ten years.

§ 303. [*am'd 1892.*] **Crime against nature.** A person who carnally knows in any manner any animal or bird; or carnally knows any male or female person by the anus or by or with the mouth; or voluntarily submits to such carnal knowledge; or attempts sexual intercourse with a dead body is guilty of sodomy and is punishable with imprisonment for not more than twenty years.

§ 304. **Penetration sufficient.** Any sexual penetration, however slight, is sufficient to complete the crime specified in the last section.

## CHAPTER VI.

### VIOLOGING SEPULTURE AND THE REMAINS OF THE DEAD.

**Section 305.** Right to direct disposal of one's own body after death.

- 306. Duty of burial.
- 307. Burial in other states.
- 308. Dissection when allowed.
- 309. Unlawful dissection a misdemeanor.
- 310. Remains after dissection must be buried.
- 311. Body stealing.
- 312. Recovering stolen body.
- 313. Opening grave.
- 314. Arresting or attaching a dead body.
- 315. Disturbing funerals.

§ 305. **Right to direct disposal of one's own body after death.** A person has the right to direct the manner in which his body shall be disposed of after his death ; and also to direct the manner in which any part of his body, which becomes separated therefrom during his lifetime, shall be disposed of ; and the provisions of this chapter do not apply to any case where a person has given directions for the disposal of his body or any part thereof inconsistent with those provisions.

§ 306. **Duty of burial.** Except in the cases in which a right to dissect is expressly conferred by law, every dead body of a human

being, lying within this State, must be decently buried within a reasonable time after death.

§ 307. **Burial in other States.** The last section does not impair any right to carry the dead body of a human being through this state, or to remove from this state the body of a person dying within it, for the purpose of burying the same elsewhere.

§ 308. [*am'd* 1889.] **Dissection, when allowed.** The right to dissect the dead body of a human being exists in the following cases:

1. In the cases prescribed by special statutes.

2. Whenever a coroner is authorized by law to hold an inquest upon a body, so far as such coroner authorizes dissection for the purposes of the inquest, and no further.

3. Whenever and so far as the husband, wife or next of kin of the deceased, being charged by law with the duty of burial, may authorize dissection for the purpose of ascertaining the cause of death, and no further.

4. Whenever any district attorney in this State, in the discharge of his official duties, shall deem it necessary, he may exhume, take possession of, and remove the body of a deceased person, or any portion thereof, and submit the same to a proper physical or chemical examination, or analysis, to ascertain the cause of death, and the same shall be made on the order of any justice of the Supreme Court of this State, or the county judge of the county in which such dead body shall be, which order shall be made on the application of the district attorney with or without notice to the relatives of the deceased person, or to any person or corporation having the legal charge of such body, as the court may direct. Said district attorney shall have power to direct the sheriff, constable, or other peace officer in this State, or to employ such person or persons as he may deem necessary to assist him in exhuming, removing, obtaining possession of and examining physically or chemically such dead body or any portion thereof. The expense therefor shall be a county charge, to be paid by the county treasurer on the certificate of the district attorney.

§ 309. **Unlawful dissection a misdemeanor.** A person who makes, or causes or procures to be made, any dissection of the body of a human being, except by authority of law, or in pursuance of a permission given by the deceased, is guilty of a misdemeanor.

§ 310. **Remains after dissection must be buried.** In all cases in which a dissection has been made, the provisions of this chapter, requiring the burial of a dead body, and punishing interference with or injuries to it, apply equally to the remains of the body dissected, as soon as the lawful purposes of such dissection have been accomplished.

§ 311. **Body stealing.** A person, who removes the dead body of a human being; or any part thereof, from a grave, vault, or other place, where the same has been buried, or from a place where the same has been deposited while awaiting burial, without authority of law, *with intent to sell the same, or for the purpose of dissection, or*

for the purpose of procuring a reward for the return of the same, or from malice or wantonness, is punishable by imprisonment for not more than five years or by a fine not exceeding one thousand dollars or both.

3 R. S. 965, § 18.

§ 312. **Recovering stolen body.** A person who purchases, or receives except for the purpose of burial, the dead body of a human being, or any part thereof, knowing that the same has been removed contrary to the last section, is punishable by imprisonment for not more than three years.

Id. § 19.

§ 313. **Opening graves.** A person who opens a grave or other place of interment, temporary or otherwise, or a building wherein the dead body of a human being is deposited while awaiting burial, without authority of law, with intent to remove the body, or any part thereof, for the purpose of selling it or demanding money for the same, or for the purpose of dissection, or from malice or wantonness, or with intent to steal or remove the coffin or any part thereof, or any thing attached thereto, or any vestment, or other article interred, or intended to be interred with the dead body, is punishable by imprisonment for not more than two years, or by a fine of not more than two hundred and fifty dollars, or by both.

Id. § 20.

§ 314. **Arresting or attaching a dead body.** A person who arrests or attaches the dead body of a human being upon any debt or demand whatever, or detains or claims to detain it for any debt or demand, or upon any pretended lien or charge, is guilty of a misdemeanor.

§ 315. **Disturbing funerals.** A person who, without authority of law, obstructs or detains any persons engaged in carrying or accompanying the dead body of a human being to a place of burial, is guilty of a misdemeanor.

## CHAPTER VII.

### INDECENT EXPOSURES, OBSCENE EXHIBITIONS, BOOKS AND PRINTS, AND BAWDY AND OTHER DISORDERLY HOUSES.

#### SECTION 316. Exposure of person.

317. Possessing, etc., obscene prints.

318. Indecent articles, etc.

319. Mailing, carrying obscene print, etc.

320. Warrant to sheriff to search, etc.

321. Physician's instruments.

322. Keeping disorderly houses, etc.

**§ 316. Exposure of person.** A person who willfully and lewdly exposes his person, or the private parts thereof, in any public place, or in any place where others are present, or procures another so to expose himself, is guilty of a misdemeanor.

**§ 317. [am'd 1887.] Obscene prints.** 1. A person who sells, lends, gives away or shows, or offers to sell, lend, give away, or show, or has in his possession, with the intent to sell, lend, or give away, so to show, or advertises in any manner, or who otherwise offers for loan, gift, sale, or distribution, any obscene, lewd, lascivious, filthy, indecent or disgusting book, magazine, pamphlet, newspaper, story paper, writing, paper, picture, drawing, photograph, figure or image, or any written or printed matter of an indecent character; or any article or instrument of indecent or immoral use, or purporting to be for indecent or immoral use or purpose, or who designs, copies, draws, photographs, prints, utters, publishes, or in any manner manufactures, or prepares any such book, picture, drawing, magazine, pamphlet, newspaper, story paper, writing, paper, figure, image, matter, article or thing, or who writes, prints, publishes or utters, or causes to be written, printed, published or uttered any advertisement or notice of any kind, giving information, directly or indirectly, stating, or purporting so to do, where, how, of whom, or by what means any, or what purports to be any, obscene, lewd, lascivious, filthy, disgusting, or indecent book, picture, writing, paper, figure, image, matter, article or thing named in this section, can be purchased, obtained or had, or who

2. Prints, utters, publishes, sells, lends, gives away or shows, or has in his possession with intent to sell, lend, give away or show, or otherwise offers for sale, loan, gift or distribution, any book, pamphlet, magazine, newspaper or other printed paper devoted to the publication, and principally made up of criminal news, police reports, or accounts of criminal deeds, or pictures, or stories of deeds of bloodshed, lust or crime; or who

3. In any manner, hires, employs, uses or permits any minor or child to do or assist in doing any act or thing mentioned in this section, or any of them is guilty of a misdemeanor, and, upon conviction, shall be sentenced to not less than ten days nor more than one year imprisonment, or be fined not less than fifty dollars, nor more than one thousand dollars, or both for each offense.

**§ 318. [am'd 1887.] Indecent articles.** A person who sells, lends, gives away, or in any manner exhibits or offers to sell, lend or give away, or has in possession with intent to sell, lend or give away, or advertises, or offers for sale, loan or distribution, any instrument or article, or any recipe, drug or medicine for the prevention of conception, or for causing unlawful abortion, or purporting to be for the prevention of conception, or for causing unlawful abortion, or advertises, or holds out representations that it can be so used or applied, or any such description as will be calculated to lead another to so use

or apply any such article, recipe, drug, medicine or instrument, or who writes or prints or causes to be written or printed, a card, circular, pamphlet, advertisement or notice of any kind, or gives information orally, stating when, where, how, of whom, or by what means such an instrument, article, recipe, drug or medicine can be purchased or obtained, or who manufactures any such instrument, article, recipe, drug or medicine, is guilty of a misdemeanor, and shall be liable to the same penalties as provided in section 317 of this Code.

**§ 319. Mailing, carrying obscene print, etc.** A person who deposits, or causes to be deposited, in any post-office within the state, or places in charge of an express company, or of a common carrier, or other person, for transportation, any of the articles or things specified in the last two sections, or any circular, book, pamphlet, advertisement, or notice relating thereto, with the intent of having the same conveyed by mail or express, or in any other manner, or who knowingly or willfully receives the same, with intent to carry or convey, or knowingly or willfully carries or conveys the same, by express, or in any other manner except in the United States mail, is guilty of a misdemeanor.

3 R. S. 980, § 82.

**§ 320. Warrant to sheriff, to search, etc.** A magistrate having jurisdiction to issue warrants in criminal cases, upon complaint that any person within his jurisdiction is offending against the provisions of this chapter, supported by oath or affirmation, must issue a warrant, directed to the sheriff or to any constable, marshal or police officer within the county, directing him to search for, seize, and take possession of any of the articles specified in this chapter, in the possession of the person against whom complaint is made. The magistrate must immediately transmit every article seized by virtue of the warrant, to the district attorney of the county, who must, upon the conviction of the person from whose possession the same was taken, cause it to be destroyed, and the fact of such destruction to be entered upon the records of the court in which the conviction is had.

3 R. S. 980, § 83.

**§ 321. Physician's instruments.** An article or instrument, used or applied by physicians lawfully practicing, or by their direction or prescription, for the cure or prevention of disease, is not an article of indecent or immoral nature or use, within this chapter. The supplying of such articles to such physicians or by their direction or prescription, is not an offense under this chapter.

3 R. S. 980, § 83.

**§ 322. [am'd 1887.] Keeping disorderly houses.** A person who keeps a house of ill-fame or assignation of any description, or a house or place for persons to visit for unlawful sexual intercourse, or for

any lewd, obscene or indecent purpose, or disorderly house, or a house commonly known as a stale beer dive, or any place of public resort by which the peace, comfort, or decency of a neighborhood is habitually disturbed, or who, as agent or owner, lets a building or any portion of a building, knowing that it is intended to be used for any purpose specified in this section, or who permits a building or a portion of a building to be so used, is guilty of a misdemeanor. This section shall be construed to apply to any part or parts of a house used for any of the purposes herein specified.

## CHAPTER VIII.

### LOTTERIES.

**SECTION 323.** "Lottery" defined.

324. Lottery declared a public nuisance.

325. Contriving, drawing, etc., lottery.

326. Selling lottery tickets.

327. Advertising lotteries.

328. Offering property for disposal dependent upon the drawing of any lottery.

329. Keeping office, etc., for registry.

330. Insuring lottery tickets, etc.

331. Advertising offers to insure lottery tickets.

332. Property offered for disposal in lotteries, forfeited.

333. Letting building for lottery purposes.

334. Lotteries out of this state.

335. Advertisements by persons out of this state.

§ 323. "Lottery" defined. A lottery is a scheme for the distribution of property by chance, among persons who have paid or agreed to pay a valuable consideration for the chance, whether called a lottery, raffle, or gift enterprise or by some other name.

2 R. S. 922, § 47.

§ 324. Lottery declared a public nuisance. A lottery is unlawful and a public nuisance

2 R. S. 922, § 51.

§ 325. Contriving, drawing, etc., lottery. A person who contrives, proposes or draws a lottery, or assists in contriving, proposing or drawing the same, is punishable by imprisonment for not more than two years, or by fine of not more than one thousand dollars, or both.

2 R. S. 922, §§ 47, 52.

§ 326. Selling lottery tickets. A person who sells, gives or in any way whatever furnishes or transfers, to or for another, a ticket, chance, share or interest, or any paper, certificate, or instrument, purporting to be or to represent a ticket, chance, share or interest, is

or dependent upon the event of a lottery, to be drawn within or without this state, is guilty of a misdemeanor.

2 R. S. 923, § 54.

**§ 327. Advertising lotteries.** A person who, by writing or printing, or by circular or letter, or in any other way, advertises or publishes an account of a lottery, whether within or without the state, stating how, when or where the same is to be, or has been, drawn, or what are the prizes therein, or any of them, or the price of a ticket, or any share or interest therein, or where or how it may be obtained, is guilty of a misdemeanor.

2 R. S. 923, § 53.

**§ 328. Offering property for disposal dependent upon the drawing of any lottery.** A person who offers for sale or distribution, in any way, real or personal property, or any interest therein, to be determined by lot or chance, dependent upon the drawing of a lottery within or without this state, or who sells, furnishes, or procures, or causes to be sold, furnished, or procured, in any manner, a chance or share, or any interest in property offered for sale or distribution, in violation of this chapter, or a ticket or other evidence of such a chance, share, or interest, is guilty of a misdemeanor.

2 R. S. 923, § 55.

**§ 329. Keeping office, etc., for registry.** A person who opens sets up, or keeps, by himself or another person, an office or other place for registering the number of tickets in a lottery within or without this state, or for making, receiving, or registering any bets or stakes for the drawing, or result of such a lottery, or who advertises or in any way publishes any account of an opening, setting up, or keeping of such an office or place, is guilty of a misdemeanor.

2 R. S. 923, § 59.

**§ 330. Insuring lottery tickets, etc.** A person who insures, or receives any consideration for insuring, for or against the drawing of a ticket, share, or interest in a lottery, or of a number of such a ticket, share or interest, or who receives any valuable consideration upon an agreement to pay money, or deliver property, in the event, that a ticket, share, or interest, or a number of such a ticket, share, or interest in a lottery, shall prove fortunate or unfortunate, or shall be drawn or not drawn in a particular way or in a particular order, or who promises or agrees, or offers to pay money, or to deliver property, or to do, or forbear to do, any thing for the benefit of any person, with or without consideration, upon any accident or contingency dependent on the drawing thereof, or of any number or ticket therein is guilty of a misdemeanor.

2 R. S. 924, §§ 60, 61.

**§ 331. Advertising offers to insure lottery tickets.** A person who, by writing or printing, or by circular or letter, or in any other way, advertises or publishes an offer, notice, or proposition, in violation of the last section, is guilty of a misdemeanor.

Id. § 61.

**§ 332. Property offered or disposal in lotteries forfeited.** All property offered for sale, or distribution, in violation of the provisions of this chapter, is forfeited to the people of this state, as well before as after the determination of the chance on which the same was dependant. And it is the duty of the respective district attorneys, to demand, sue for and recover, in behalf of the people, all property so forfeited, and to cause the same to be sold when recovered, and to pay the proceeds of the sale of such property, and any moneys that may be collected in any such suit, into the county treasury, for the benefit of the poor.

2 R. S. 923, § 56.

**§ 333. Letting building for lottery purposes.** A person who lets, or permits to be used any building or portion of a building, knowing that it is intended to be used for any of the purposes declared punishable by this chapter, is guilty of a misdemeanor.

**§ 334. Lotteries out of this state.** The provisions of this chapter are applicable to lotteries drawn or to be drawn out of this state, whether authorized or not by the laws of the state where they are drawn or to be drawn, in the same manner as to lotteries drawn or to be drawn within this state.

**§ 335. Advertisements by persons out of the state.** The provisions of sections 327 and 331 are applicable, whenever the advertisement was published, or the letter or circular sent or delivered through or in this state, though the person causing or procuring the same to be published, sent or delivered, was out of the state at the time of so doing.

**§ 335A. [added 1887.] Gift sales of food.** No person shall sell, exchange or dispose of any article of food or offer or attempt to do so upon any representation, advertisement, notice or inducement that any thing other than what is specifically stated to be the subject of the sale or exchange, is or is to be delivered or received or in any way connected with or a part of the transaction as a gift, prize, premium or reward to the purchaser.

**§ 2.** Any person violating any of the provisions of the foregoing section shall be deemed guilty of a misdemeanor and, in addition thereto, shall be liable to a penalty of twenty-five dollars, to be recovered with costs, by any person suing therefor in his own name.



## CHAPTER IX.

## GAMING.

- |                                      |                                      |
|--------------------------------------|--------------------------------------|
| § 336. Keeping gambling apparatus.   | § 344. Common gambler, etc.          |
| 337. Punishment.                     | 345. Seizure of implements. [etc     |
| 338. Apparatus a nuisance.           | 346, 347. Implements to be destroyed |
| 339. Winning at play by fraud.       | 348. Persuading to visit.            |
| 340. Payment of money.               | 349. Officers to prosecute.          |
| 341. Winning or losing \$25 or more. | 350. Duty of shipmasters.            |
| 342. Witness' privilege. [ments.     | 351. Bets on horse races, etc.       |
| 343. Keeping gambling establish-     | 352. Racing of animals for stake.    |

§ 336. Keeping gambling apparatus in certain places. It is unlawful to keep or use any table, cards, dice, or any other article or apparatus whatever, commonly used or intended to be used in playing any game of cards or faro, or other game of chance, upon which money is used wagered, at any of the following places :

1. Within a building, or the appurtenances or grounds connected with any building, in which a court of justice usually holds its sessions ; or a building, any part of which is usually occupied by a religious corporation, or an incorporated benevolent, charitable, scientific or missionary society, or an incorporated academy, high school, college or other institution of learning, a library company, or building and mutual loan company ;

2. Within any building, or the appurtenances or grounds connected with any building, while votes are received or canvassed therein at any election for an officer of this state, or of the United States ; or while any public meeting is held therein ;

3. Within the distance of one mile from the grounds upon which any training, review, drill or exercise of a military organization, created or permitted by the laws of this state, is proceeding, or upon which any public fair, exhibition, exercise or meeting is held in the open air ; or

4. Within any vessel lying in, or navigating, any of the waters of this state ; or owned, or navigated by, or for account of, any corporation created by the laws of this state.

2 R. S. 917, § 22.

§ 337. Punishment. A person who knowingly violates the last section is guilty of a misdemeanor.

§ 338. Gambling apparatus declared a nuisance. An article or apparatus maintained or kept in violation of section 336, is a public nuisance.

§ 339. Winning at play by fraudulent means. A person who, by any fraud, or false pretense whatsoever, while playing at any game, or while having a share in any wager played for, or while betting on the sides or hands of such as play, wins, or acquires to

himself, or to any other, a sum of money or other valuable thing, is guilty of a misdemeanor.

**§ 340. Exacting payment of money won at play.** A person who exacts or receives from another, directly or indirectly, any money or other valuable thing, by reason of the same having been won by playing at cards, faro, or any other game of chance, or any bet or wager whatever upon the hands or sides of players, forfeits five times the value of the money or thing so exacted or received, to be recovered in a civil action, by the persons charged with the support of the poor in the place where the offense was committed, for the benefit of the poor.

**§ 341. Winning or losing upward of twenty-five dollars.** A person who wins or loses at play or by betting, at any time, the sum or value of twenty five dollars or upwards, within the space of twenty-four hours, is punishable by a fine not less than five times the value or sum so lost or won, to be recovered in a civil action, by the persons charged with the support of the poor in the place where the offense was committed, for the benefit of the poor.

**§ 342. Witness' privilege.** No person shall be excused from giving testimony upon any investigation or proceeding for a violation of this chapter, upon the ground that such testimony would tend to convict him of a crime; but such testimony cannot be received against him upon any criminal investigation or proceeding.

**§ 343. [am'd 1889.] Keeping gaming and betting establishments.** Any corporation or association or the officers thereof, or any copartnership or individual, who shall keep a room, shed, tent, tenement, booth, building, float or vessel or any part thereof, to be used for gambling or for any purpose or in any manner forbidden by this chapter, or for making any wagers or bets made to depend upon any lot, chance, casualty, unknown or contingent event or on the future price of stocks, bonds, securities, commodities or property of any description whatever, or for making any contract or contracts for or on account of any money, property or thing in action, so bet or wagered, or being the owner or agent knowingly lets or permits the same to be so used, is guilty of a misdemeanor. This section shall not be extended so as to prohibit or in any manner affect any insurance made in good faith for the security or indemnity of the party insured and which is not otherwise prohibited by law nor to any contract on bottomry or respondentia. And nothing in this section shall be construed to repeal or otherwise affect the provisions of chapter 479 of the laws of 1887, entitled "An act prescribing the period in each year during which and the terms under which racing may take place upon the grounds of an association incorporated for the purpose of improving the breed of horses and suspending the operation of certain sections of the Penal Code."

**§ 344. Common Gambler, etc.** A person who is the owner, agent, or superintendent of a place, or of any device, or apparatus,

for gambling ; or who hires, or allows to be used a room, table, establishment or apparatus for such a purpose ; or who engages as dealer, game keeper, or player in any gambling or banking game, where money or property is dependent upon the result ; or who sells or offers to sell what are commonly called lottery policies, or any writing, paper, or document in the nature of a bet, wager, or insurance upon the drawing or drawn numbers of any public or private lottery ; or who endorses or uses a book, or other document, for the purpose of enabling others to sell, or offer to sell, lottery policies, or other such writings, papers, or documents, is a common gambler, and punishable by imprisonment for not more than two years, or by a fine not exceeding one thousand dollars or both.

**§ 345. Seizure of gambling implements authorized.** A person, who is required or authorized to arrest any person for a violation of the provisions of this chapter, is also authorized and required to seize any table, cards, dice or other apparatus or article, suitable for gambling purposes, found in the possession or under the control of the person so arrested, and to deliver the same to the magistrate before whom the person arrested is required to be taken.

**§ 346. Such implements to be destroyed or delivered to district attorney.** The magistrate, to whom any thing suitable for gambling purposes is delivered pursuant to the last section, must, upon the examination of the defendant, or if such examination is delayed or prevented, without awaiting such examination, determine the character of the thing so delivered to him, and whether it was actually employed by the defendant in violation of the provisions of this chapter ; and if he finds that it is of a character suitable for gambling purposes, and that it has been used by the defendant in violation of this chapter, he must cause it to be destroyed, or to be delivered to the district attorney of the county in which the defendant is liable to indictment or trial, as the interests of justice may, in his opinion, require.

**§ 347. Such implements to be destroyed upon conviction.** Upon the conviction of the defendant, the district attorney must cause to be destroyed every thing suitable for gambling purposes, in respect whereof the defendant stands convicted, and which remains in the possession or under the control of the district attorney.

**§ 348. Persuading another person to visit gambling places.** A person, who persuades another to visit any building or part of a building, or any vessel or float, occupied or used for the purpose of gambling, in consequence whereof such other person gambles therein, is guilty of a misdemeanor ; and in addition to the punishment prescribed therefor, is liable to such other person in an amount equal to any money or property there lost by him at play, to be recovered in a civil action.

**§ 349. Certain officers directed to prosecute offenses under this chapter.** It is the duty of all sheriffs, constables, police officers, and prosecuting or district attorneys to inform against, and prosecute, all persons whom they have reason to believe offenders against the provisions of this chapter; and any omission so to do is punishable by a fine not exceeding five hundred dollars.

**Id. § 45.**

**§ 350. Duty of master to suppress gambling on board their vessels.** If the commander, owner or hirer of any vessel or float, knowingly permits any gambling for money or property on board such vessel or float, or if he does not, upon his knowledge of the fact, immediately prevent the same, he is punishable by a fine not exceeding five hundred dollars; and in addition thereto is liable to any party losing money or property by means of gambling in violation of this section, in a sum equal to the money or property, to be recovered in a civil action.

**§ 351. Bets, etc., on horse races, etc.** A person who keeps any room, shed, tenement, tent, booth or building, or any part thereof, or who occupies any place upon any public or private grounds within this state, with books, apparatus or paraphernalia, for the purpose of recording or registering bets or wagers, or of selling pools, and any person who records or registers bets or wagers, or sells pools upon the result of any trial or contest of skill, speed or power of endurance, of man or beast, or upon the result of any political nomination, appointment or election; or being the owner, lessee or occupant of any room, shed, tenement, tent, booth or building, or part thereof, knowingly permits the same to be used or occupied for any of these purposes, or therein keeps, exhibits or employs any device or apparatus for the purpose of recording or registering such bets or wagers, or the selling of such pools, or becomes the custodian or depositary for hire or reward, of any money, property or thing of value staked, wagered or pledged upon any such result, is punishable by imprisonment for one year, or by fine not exceeding two thousand dollars, or both.

**§ 352. Racing of animals for stake.** All racing or trial of speed between horses or other animals for any bet, stake or reward, except such as is allowed by special laws, is a public nuisance; and every person acting or aiding therein, or making or being interested in any such bet, stake or reward is guilty of a misdemeanor; and in addition to the penalty prescribed therefor, he forfeits to the people of this state, all title or interest in any animal used with his privity in such race or trial of speed, and in any sum of money or other property betted or staked upon the result thereof.

**§ R. S. 285, §§ 27, 72.**

## CHAPTER X.

### PAWNBROKERS.

**SECTION 353.** Pawnbroking without a license.

354. Refusing to exhibit stolen goods to owner.

355. Selling before time to redeem has expired and refusing to disclose particulars of sale.

§ 353. **Pawnbroking without a license.** A person, who carries on the business of a pawnbroker, by receiving goods in pledge for loans at a rate of interest above that allowed law, except by virtue of a license from a municipal corporation or other authority empowered to grant licenses to pawnbrokers, is guilty of a misdemeanor.

2 R. S. 1006, §§ 8-13.

§ 354. **Refusing to exhibit stolen goods to owner.** A pawnbroker, or person carrying on the business of a pawnbroker, or a junk dealer, who having received any goods which have been embezzled or stolen, refuses or omits to exhibit them, upon demand, during the usual business hours, to the owner of said goods or his agent authorized to demand an inspection thereof, is guilty of a misdemeanor.

§ 355. [*am'd 1893.*] **Selling before time to redeem.** A pawnbroker who sells any article received by him in pledge, before the time to redeem the same has expired, or who willfully refuses to disclose the name of the purchaser and the price received by him in pledge, and subsequently sold, is guilty of a misdemeanor. No pawnbroker shall transact any pawnbroking business or advance any moneys upon goods pawned or received except between hours of seven o'clock A. M., and six o'clock P. M., on week days, excepting on Saturday and then only between the hours of seven o'clock A. M., and twelve o'clock midnight, nor shall any business be transacted by pawnbrokers as such between the hours of twelve o'clock midnight on Saturday and seven o'clock A. M. on Monday, and every violation of these prohibitions is a misdemeanor.

## TITLE XI.

### OF OTHER OFFENSES.

**SECTION 356.** Misconduct of veterinary surgeons.

357. Acts of intoxicated physicians.

358. Willfully poisoning food, etc.

359. Overloading passenger vessel.

360. Unauthorized pressure of steam.

361. Generation of unsafe amount of steam.

362. Mismanagement of steam boilers.

363. Fictitious copartnership names.

- 363a. Firm or corporation name: how filed, etc.
- 364. Offenses against trade marks.
- 365. "Article of merchandise" defined.
- 366. "Trade mark" defined.
- 367. "Affixing" defined.
- 368. "Trade marks deemed counterfeited."
- 369. Refilling or selling stamped mineral water bottles, etc.
- 370. Keeping such bottles with intent to refill or sell them.
- 371. Search for bottles kept in violation of law, authorized.
- 372. Defacing marks upon wrecked property.
- 373. Defacing marks upon logs or lumber.
- 374. Officer unlawfully detaining wrecked property.
- 375. Fraud in affairs of limited partnership.
- 376. Solemnizing unlawful marriages.
- 377. Unlawful confinement of idiots, insane persons, etc.
- 378. Taking usury.
- 379. Reconfining persons discharged upon writ.
- 380. Concealing persons entitled to writ of deliverance.
- 381. Innkeepers and carriers refusing to receive guests and passengers.
- 382. Frauds on hotel keepers.
- 383. Protecting civil and public rights.
- 384. Acrobatic exhibitions.
- 384a. Contracts in relation to Indian lands.
- 384b. Penalty for dealing in convict-made goods.

§ 356. [added 1893.] **Misconduct of veterinary surgeons.** A person who presents to a county clerk for registration as a practitioner of veterinary medicine or surgery any diploma or certificate fraudulently obtained, or practices veterinary medicine and surgery without complying with, or contrary to law, is guilty of a misdemeanor. This section shall not be construed to prohibit students from prescribing under the supervision of preceptors, or to prohibit gratuitous services in case of emergency, or the services of an authorized practitioner of a neighboring state when incidentally called into requisition.

§ 357. **Acts of intoxicated physicians.** A physician or surgeon, or person practicing as such, who, being in a state of intoxication, administers any poison, drug or medicine, or does any other act as a physician or surgeon, to another person, by which the life of the latter is endangered, or his health seriously affected, is guilty of a misdemeanor.

§ 358. **Willfully poisoning food, etc.** A person who willfully mingles poison with any food, drink or medicine, intended or prepared for the use of human beings, and a person who willfully poisons any spring, well or reservoir of water, is punishable by imprisonment in a state prison not exceeding ten years, or in a county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or both such fine and imprisonment.

**§ 359. Overloading passenger vessel.** A person navigating a vessel for gain, who willfully or negligently receives so many passengers, or such a quantity of other lading, on board the vessel, that by means thereof it sinks or is upset or injured, and thereby the life of a human being is endangered, is guilty of a misdemeanor.

3 R. S. 973, § 31.

**§ 360. Unauthorized pressure of steam.** A person who applies, or causes to be applied, to a steam boiler a higher pressure of steam than is allowed by law, or by the inspector, officer or person authorized to limit the pressure of steam to be applied to such boiler, is guilty of a misdemeanor.

**§ 361. Generation of unsafe amount of steam.** A captain or other person having charge of the machinery or boiler of a steamboat, used for the conveyance of passengers, in the waters of this state, who, from ignorance or gross neglect, or for the purpose of increasing the speed of the boat, creates, or causes to be created, an undue and unsafe pressure of steam, is guilty of a misdemeanor.

3 R. S. 973, § 31.

**§ 362. Mismanagement of steam boilers.** An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or employing steam, employed in a railway, manufactory, or other mechanical works, who, willfully or from ignorance or gross neglect, creates or allows to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

**§ 363. Fictitious copartnership names.** A person who transacts business, using the name, as partner, of one not interested with him as partner, or using the designation "and company," or "& Co." when no actual partner or partners are represented thereby is guilty of a misdemeanor. But this section does not apply to any case, where it is specially prescribed by statute that a partnership name may be continued in use by a successor, survivor, or other person.

3 R. S. 978, §§ 69, 70.

**§ 363a. [added 1893.] Agents must file statement.** 1. Any person now carrying on or conducting a general mercantile or manufacturing business within this state, or hereafter commencing such business at or in a fixed location, as agent or manager for another or others, shall, within thirty days after the passage of this act, or the commencement of such business, file a sworn statement, verified by such agent and principal or principals, in the county clerk's office of

the county within which said business is carried on, stating the nature of the business and the full name and residence of such principal or principals.

2. Any person or persons, principal or principals, may be relieved from all liability for the future act of such agent or manager by filing in the office of the county clerk where the original statement appointing such agent or manager is filed, a statement revoking such agency or managership, to take effect ten days after the filing thereof, said statement to be acknowledged before an officer authorized to take acknowledgments of deeds and to be published in at least three consecutive issues of a newspaper published in the county in which the business of said agent or manager is carried on; but if no newspaper is published in said county, then said statement shall be published in an adjoining county.

3. The county clerk shall keep a register of the names of such agents in alphabetical order, and of their principals, for which registering and filing he shall receive a fee of one dollar; and copies of such certificate and registry certified by him, and the affidavit of such publication shall be evidence.

4. Any person or persons failing to make and file the statement required by the first paragraph of this act, as therein required, shall be guilty of a misdemeanor.

§ 364. [am'd 1889.] **Offenses against trade-marks.** A person who, knowingly, in a case where provision for the punishment for the offense is not otherwise specially made by statute :

1. Falsely makes or counterfeits a trade-mark ; or

2. Affixes to any article of merchandise, a false or counterfeit trade-mark, knowing the same to be false or counterfeit, or the genuine trade-mark, or an imitation of the trade-mark of another, without the latter's consent ; or

3. Sells, or keeps or offers for sale, an article of merchandise to which is affixed a counterfeit trade-mark, or the genuine trade-mark, or an imitation of the trade-mark of another, without the latter's consent ; or

4. Has in his possession a counterfeit trade-mark, knowing it to be counterfeit, or a die, plate, brand or other thing for the purpose of falsely making or counterfeiting a trade-mark ; or,

5. Makes or sells, or offers to sell or dispose of, or has in his possession with intent to sell or dispose of, an article of merchandise with such a trade-mark as to appear to indicate the quantity, quality, char-



acter, place of manufacture or production, or persons manufacturing or producing the article, but not indicating it truly; or

6. Who knowingly sells, offers or exposes for sale, any goods which are represented in any manner, by word or deed, to be the manufacture or product of any person, firm or corporation, other than himself, unless such goods are contained in the original packages and under the labels, marks or names placed thereon by the manufacturer who is entitled to use such marks, names, brands or trade-marks; or

7. Who shall sell or shall expose for sale any goods in bulk, to which no label or trade-mark shall be attached, and shall by representation, name or mark written or printed thereon, represent that such goods are the production or manufacture of a person who is not the manufacturer;

Is guilty of a misdemeanor.

**§ 364a. Offenses against marking, etc., words "silver," "sterling silver," or "solid silver."**—A person who makes, or sells, or offers to sell or dispose of, or has in his possession, with intent to sell or dispose of any article of merchandise marked, stamped or branded with the words "sterling" or "sterling silver;" or encased, or inclosed in any box, package, cover or wrapper, or other thing in, by or which the said article is packed, inclosed or otherwise prepared for sale or disposition, having thereupon any engraving, or printed label, stamp, imprint, mark or trade mark, indicating or denoting by such marking, stamping, branding, engraving or printing that such article is silver, sterling silver or solid silver, unless nine hundred and twenty-five one-thousandths of the component parts of the metal of which the said article is manufactured is pure silver, is guilty of a misdemeanor.

**§ 364b. Same.** A person who makes or sells, or offers to sell or dispose of, or has in his possession with intent to sell or dispose of, any article of merchandise marked, stamped or branded with the words "coin" or "coin silver"; or encased or enclosed in any box, package, cover or wrapper, or other thing in, by or which the said article is packed, inclosed or otherwise prepared for sale or disposition, having thereupon any engraving, or printed label, stamp, imprint, mark or trade mark, indicating or denoting by such marking, stamping, branding, engraving or printing that such article is coin or coin silver, unless nine hundred one-thousandths part of the component parts of the metal of which the said article is manufactured is pure silver, is guilty of a misdemeanor.

**§ 365: "Article of merchandise" defined.** The expression "article of merchandise" as used in this title, signifies any goods, wares, work of art, commodity, compound, mixture, or other preparation or thing, which may be lawfully kept or offered for sale.

**§ 366. Trade-mark defined.** A "trade-mark" is a mark used to indicate the maker, owner or seller of an article of merchandise, and includes, among other things, any name of a person or corporation, or any letter, word, device, emblem, figure, seal, stamp, diagram, brand, wrapper, ticket, stopper, label or other mark, lawfully

adopted by him, and usually affixed to an article of merchandise to denote that the same was imported, manufactured, produced, sold, compounded, bottled, packed or otherwise prepared by him; and also a signature or mark, used or commonly placed by a painter, sculptor or other artist, upon a painting, drawing, engraving, statue or other work of art, to indicate that the same was designed or executed by him.

§ 367. "**Affixing**" defined. A trade-mark is deemed to be affixed to an article of merchandise, when it is placed in any manner in or upon, either

1. The article itself; or

2. A box, bale, barrel, bottle, case, cask, or other vessel or package, or a cover, wrapper, stopper, brand, label, or other thing, in, by, or with which the goods are packed, inclosed, or otherwise prepared for sale or disposition.

§ 368. Trade-marks deemed "counterfeited." An "imitation of a trade-mark" is that which so far resembles a genuine trade-mark as to be likely to induce the belief that it is genuine, whether by the use of words or letters similar in appearance or in sound, or by any sign, device or other means whatsoever.

**§ 369. Refilling or selling stamped mineral water bottles, etc.** Any person engaged in making, bottling, packing, selling or disposing of milk, ale, beer, cider, mineral water or other beverage, may register his title as owner of a trade-mark by filing with the secretary of state and the clerk of the county where the principal place of business of such person is situated, a description of the marks and devices used by him in his business, and in case the same has not been heretofore published according to the laws existing at the time of publication, causing the same to be published in a newspaper of the county, three weeks, daily, if in the city of New York or Brooklyn, and weekly if in any other part of the state; but no trade-mark shall be filed which is not and cannot become a lawful trade-mark, or which is merely the name of a person, firm or corporation unaccompanied by a mark sufficient to distinguish it from the same name when used by another person. After such registration the use without the consent of the owner of the trade-mark, so described, or the filling of any bottle, siphon, barrel, vessel or thing for the purpose of sale, or for the sale therein of any article of the same general nature and quality which said bottle, siphon, barrel, vessel or other thing before contained, without the obliteration or defacement of the trade-mark upon it, when such trade-mark can be obliterated or defaced without substantial injury to the bottle, siphon, barrel, vessel or other thing so as to prevent its wrongful use, shall be deemed a misdemeanor.

**§ 370. Keeping such bottles with intent to refill or sell them.** Any person engaged in the business of buying and selling bottles, siphons, barrels or other vessels or things, who shall, with intent to defraud the registered owner of a trade-mark, knowingly sell or offer for sale any bottle, siphon, barrel, vessel or other thing to any person, who he has reason to believe wrongfully intends to use the trade-mark upon it, or to fill such bottle, siphon, barrel, vessel or other thing in violation of section 369, shall be deemed guilty of a misdemeanor.

2 R. S. 252, §§ 11-13.

**§ 371. Search for bottles kept in violation of law authorized.** Whenever a registered owner of a trade-mark, or his agent, makes oath before a magistrate that he has reason to believe, and does believe, stating the grounds of his belief, that a bottle, siphon, barrel, vessel or other thing to which is affixed a trade-mark belonging to him is being used or filled, or has been sold or offered for sale, by any person whomsoever, in violation of the preceding sections, then the magistrate may issue a search warrant to discover the thing and cause the person having it in possession to be brought before him, and may thereupon inquire into the circumstances, and if, on exam-

ination, he finds that such person has been guilty of the offense charged, he may hold the offender to bail to await the action of the grand jury, and the offender shall also be liable to an action on the case for damages for such wrongful use of such trade-mark at the suit of the owner thereof, and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of his trade-mark, and to recover compensation therefor in any court having jurisdiction over the person guilty of such wrongful use.

**§ 372. Defacing marks upon wrecked property.** A person who defaces or obliterates the marks upon wrecked property, or in any manner disguises the appearance thereof, with intent to prevent the owner from discovering its identity, or who destroys or suppresses any invoice, bill of lading or other document tending to show the ownership thereof, is guilty of a misdemeanor.

2 R. S. 982, § 26.

**§ 373. [am'd 1893.] Floating logs or defacing marks thereon.** A person who :

1. Floats, runs or assists in floating or running any lumber, logs or other timber upon or over any river not excepted by law, within this state, recognized by law or use as a public highway for the purpose of floating and running lumber, logs and other timber therein, without first filing the bond executed and approved as required by law; or,

2. Unlawfully cuts out, alters or defaces any mark made upon any log or lumber, whether such mark be recorded or not, or puts a false mark upon any log or lumber floating in any of the waters of this state or lying upon land, is guilty of a misdemeanor.

**§ 374. Officer unlawfully detaining wrecked property.** An officer, whose duties pertain in any way to wrecked property, who, without authority of law, detains such property or the proceeds thereof, after the salvage and expenses chargeable thereon have been paid or offered to him, or who is guilty of any fraud, embezzlement or extortion in the discharge of such duties, is guilty of a misdemeanor.

2 R. S. 981, § 24.

**§ 375. Fraud in affairs of limited partnership.** A member of a limited partnership, who is guilty of any fraud in the affairs of the partnership, is guilty of a misdemeanor.

3 R. S. 1156, § 19.

**§ 376. [am'd 1893]. Solemnizing unlawful marriages.** A minister or magistrate who solemnizes a marriage when either of the parties is known to him to be under the age of legal consent, or to be an idiot or insane person, or a marriage to which within his knowledge a legal impediment exists, is guilty of a misdemeanor. Until a marriage has been dissolved or annulled by a proper tribunal or court of competent jurisdiction, any person who shall assume to grant a divorce, in writing, purporting to divorce husband and wife and permitting them or either of them to lawfully marry again, shall be guilty of a misdemeanor punishable by fine for the first offense not exceeding five hundred dollars, and for the second offense one thousand dollars, or imprisonment not exceeding one year, or both such fine and imprisonment.

**§ 377. Unlawful confinement of idiots, insane persons, etc.** A person, who confines an idiot, lunatic or insane person, in any other manner or in any other place than as authorized by law, and a person guilty of harsh, cruel or unkind treatment of, or any neglect of duty towards, any idiot, lunatic or insane person under confinement, whether lawfully or unlawfully confined, is guilty of a misdemeanor.

**§ 378. Taking usury.** A person who directly or indirectly receives any interest, discount, or consideration upon the loan or forbearance of money, goods or things in action, greater than is allowed by statute, is guilty of a misdemeanor.

**§ 379. Reconfining person discharged upon writ.** A person, who either solely, or as a member of a court, or in the execution of a judgment, order or process, knowingly recommits, imprisons or restrains of his liberty, for the same cause, any person who has been discharged from imprisonment upon a writ of habeas corpus, or certiorari, is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars or by imprisonment not exceeding six months, or both; and in addition to the punishment prescribed therefor, he forfeits to the party aggrieved, one thousand two hundred and fifty dollars, to be recovered in a civil action.

3 R. S. 881, § 76.

**§ 380. Concealing persons entitled to writ of deliverance.** A person having in his custody or power or under his restraint, one who would be entitled to a writ of habeas corpus or certiorari, or for whose relief a writ of habeas corpus or certiorari has been issued, who, with intent to elude the service of such writ, or to avoid the effect thereof, transfers the party to the custody, or places him under the power or control of another, or conceals or changes the place of his confinement, or who without lawful excuse refuses to produce *him*, is guilty of a misdemeanor, punishable as prescribed in the last section.

2 R. S. 832, § 77.

**§ 381. Innkeepers and carriers refusing to receive guests and passengers.** A person, who, either on his own account or as agent or officer of a corporation, carries on business as innkeeper, or as common carrier of passengers, and refuses, without just cause or excuse, to receive and entertain any guest, or to receive and carry any passenger, is guilty of a misdemeanor.

**§ 382. Frauds on hotel keepers.** A person who obtains any food or accommodation at an inn or boarding house, without paying therefor, with intent to defraud the proprietor or manager thereof, or who obtains credit at an inn or boarding house by the use of any false pretense, or who, after obtaining credit or accommodation at an inn or boarding house, absconds and surreptitiously removes his baggage therefrom, without paying for his food and accommodation, is guilty of a misdemeanor.

**§ 383. [am'd 1893]. Protecting civil and public rights.** A person who :

1. Excludes a citizen of this state, by reason of race, color or previous condition of servitude, from the equal enjoyment of any accommodation, facility or privilege furnished by innkeepers or common carriers, or by owners, managers or lessees of theatres or other places of amusement, or by teachers and officers of common schools and public institutions of learning, or by cemetery associations; or

2. Denies or aids or incites another to deny to any other person because of race, creed or color, full enjoyment of any of the accommodations, advantages, facilities and privileges of any hotel, inn, tavern, restaurant, public conveyance on land or water, theatre or other place of public resort or amusement,

Is guilty of a misdemeanor, punishable by fine of not less than fifty dollars nor more than five hundred dollars.

**§ 384. [am'd 1892.] Acrobatic exhibitions.** The proprietor, occupant or lessee of any place where acrobatic exhibitions are held, who permits any person to perform on any trapeze, rope, pole or other acrobatic contrivance, without net-work or other sufficient means of protection from falling or other accident, and any person who makes or attempts to make an ascension by means of a balloon, with a trapeze or parachute attachment, or any other device for the purpose of making a descent from such balloon, is guilty of a misdemeanor punishable for the first offense by a fine of two hundred and fifty dollars, and for each subsequent offense by a fine of two hundred and fifty dollars and imprisonment not less than three months nor more than one year.

§ 384a. [added 1893]. **Contracts in relation to Indian lands.** A person, who without the authority and consent of the legislature, in any manner or form or on any terms, purchases any lands within this state of any Indian residing therein, or makes any contract with any Indian for or concerning the sale of any lands within this state, or gives, sells, demises, conveys or otherwise disposes of any such lands, or any interest therein, or offers so to do, or enters upon or takes possession of or settles upon any such lands, by pretext or color of any right or interest in the same, in consequence of any such purchase, or contract made or to be made, since October fourteen, seven-hundred and seventy-five, is guilty of a misdemeanor.

§ 384b. [added 1893]. **Penalty for dealing in convict-made goods of other states without labeling.** A person having in his possession for the purpose of sale, or offering for sale, any convict-made goods, wares or merchandise, manufactured in any other state, without the brand, mark or label required by law, or who removes or defaces such brand, mark or label, is guilty of a misdemeanor.

## TITLE XII.

### OF CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY.

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§ 385. "Public nuisance" defined. A public nuisance is a crime against the order and economy of the state, and consists in unlawfully doing an act, or omitting to perform a duty, which act or omission :

1. Annoys, injures or endangers the comfort, repose, health or safety of any considerable number of persons ; or
2. Offends public decency ; or
3. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, a lake, or a navigable river, bay, stream, canal or basin, or a public park, square, street or highway ; or
4. In any way renders a considerable number of persons insecure in life, or the use of property.

§ 386. Unequal damage. An act which affects a considerable number of persons, in either of the ways specified in the last section is not less a nuisance because the extent of the damage is unequal.



§ 387. **Maintaining nuisance.** A person, who commits or maintains a public nuisance, the punishment for which is not specially prescribed or who willfully omits or refuses to perform any legal duty relating to the removal of such a public nuisance, is guilty of a misdemeanor.

§ 388. [*am'd 1889.*] **Permitting building to be used for nuisance, etc.** A person who,

1. Lets, or permits to be used, a building, or portion of a building, knowing that it is intended to be used for committing or maintaining a public nuisance, or

2. Opens or maintains a place where opium, or any of its preparations, is smoked by other persons, or

3. At such place sells or gives away any opium, or its said preparations, to be there smoked or otherwise used, or

4. Visits or resorts to any such place for the purpose of smoking opium or its said preparations ;

Is guilty of a misdemeanor.

§ 389. [*am'd 1887.*] **Keeping gunpowder, etc.** A person who makes or keeps gunpowder, nitro-glycerine, or any other explosive or combustible material, within a city or village, or carries such materials through the streets thereof, in a quantity or manner prohibited by law or by ordinance of the city or village, is guilty of a misdemeanor. And a person who, by the careless, negligent, or unauthorized use or management of gunpowder or other explosive substance, injures or occasions the injury of the person or property of another, is punishable by imprisonment for not more than two years. Any person or persons who shall knowingly present, attempt to present, or cause to be presented or offered for shipment to any railroad, steamboat, steamship, express or other company engaged as common carrier of passengers or freight, dynamite, nitro-glycerine, powder or other explosives dangerous to life or limb, without revealing the true nature of said explosives or substance so offered or attempted to be offered to the company or carrier to which it shall be presented, shall be guilty of a felony, and upon conviction, shall be fined in any sum not exceeding one thousand dollars and not less than three hundred dollars, or imprisonment in a state prison for not less than one nor more than five years, or be subject to both such fine and imprisonment ; and any person or company sustaining injury or damage by the violation of this act shall have and maintain an action at law against the person or persons violating any of the provisions of this act, for compensation for said injury or damage, whether said persons shall have been convicted as hereinbefore mentioned, or not.

§ 390. **Throwing gas tar, etc., into public waters.** A person, who throws or deposits gas tar, or the refuse of a gas house or gas factory, or offal, refuse, or any other noxious, offensive, or poisonous *substance* into any public waters, or into any sewer or stream running *or entering into such public waters*, is guilty of misdemeanor.

**§ 391. Violation of quarantine laws by master of vessel.** A master of a vessel subject to quarantine or visitation by the health officer, arriving in the port of New York, who refuses or omits :

1. To proceed to and anchor his vessel at the place assigned for quarantine, at the time of his arrival ; or

2. To submit his vessel, cargo and passengers, to the examination of the health officer, and to furnish all necessary information to enable that officer to determine the length of quarantine and other regulations to which they ought respectively to be subject ; or

3. To remain with his vessel at quarantine during the period assigned for her quarantine, and while at quarantine to comply with the directions and regulations prescribed by law, and with such as any of the officers of health, by virtue of the authority given to them by law, shall prescribe in relation to his vessel, his cargo, himself, his passengers or crew, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$2,000, or both.

**§ 392. Giving information, or permitting person to land before visit of health officers.** A master of a vessel hailed by a pilot, who : 1. Gives false information to such pilot, relative to the condition of his vessel, crew or passengers, or the health of the place or places from whence he came, or refuses to give such information as shall be lawfully required ; or, 2. Lands any person from his vessel, or permits any person, except a pilot, to come on board of his vessel, or unloads, or tranships any portion of his cargo, before his vessel has been visited and examined by the health officers ; or, 3. Approaches with his vessel nearer the city of New York than the place of quarantine to which he may be directed, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$2,000, or by both.

**§ 393. Landing from vessel before visit of health officers.** A person, who, being on board any vessel at the time of her arrival at the port of New York, lands from such vessel, or unloads, or transships, or assists in unloading or transshipping any portion of her cargo before such vessel has been visited and examined by the health officers, is punishable by imprisonment not exceeding one year, or by a fine not exceeding \$2,000, or both.

**§ 394. Going on board vessel at quarantine grounds, etc., without leave.** A person who goes on board of, or has any communication or intercourse with, any vessel at quarantine, or with any of the crew and passengers of such vessel, without the permission of the health officer, and every person who, without such authority, enters the quarantine grounds or anchorage, is punishable by imprisonment not exceeding one year or by a fine not exceeding two thousand dollars, or both ; and in addition thereto he may be detained at quarantine so long as the health officer directs, not exceeding twenty

days. And in case such person shall be taken sick of any infectious, contagious or pestilential disease, during such twenty days, he may be detained at the marine hospital for such further time as the health officer directs.

3 R. S. 1058, § 36.

**§ 395. Violating quarantine regulations.** A person who, having been lawfully ordered by a health officer to be detained in quarantine, and not having been discharged, leaves the quarantine grounds or anchorage, or willfully violates any quarantine law or regulation, is guilty of a misdemeanor.

3 R. S. 1058, § 36.

**§ 396. Obstructing health officer in performance of his duty.** A person who willfully opposes or obstructs a health officer or physician charged with the enforcement of the health laws, in performing any legal duty, is guilty of a misdemeanor.

3 R. S. 1054, § 25.

**§ 397. Willful violation of health laws.** A person who willfully violates any provision of the health laws the punishment for violating which is not otherwise prescribed by those laws, or by this Code, and a person who willfully violates or refuses or omits to comply with any lawful order or regulation prescribed by any board of health or health officer, or any regulation lawfully made or established by any public officer under authority of the health laws, is punishable by imprisonment not exceeding one year, or by a fine not exceeding two thousand dollars, or by both.

Id.

**§ 398. Unlicensed piloting.** A person other than a lawfully authorized branch hell gate pilot, who pilots, or offers to pilot, or tows, or offers to tow, any boat or vessel (except barges, vessels under fifty-five tons burden, and canal boats actually used in navigating the canals) through that part of the East river commonly called hell gate, is guilty of a misdemeanor. But no pilotage shall be charged to any vessel under a coasting license on entering or departing from the port of New York, by way of the East river, called hell gate, unless such vessel actually employs a pilot; and the making such such \* charge or demand without such employment, shall be deemed a misdemeanor.

**§ 399. Coasting steamers excepted.** The last section does not apply to vessels propelled wholly or partly by steam, owned or belonging to citizens of the United States, and licensed and engaged in the coasting trade.

\* So in the original.

**§ 400. Acting as port warden without authority.** A person who, not being a port warden, assumes or undertakes to act as such, or undertakes the performance of any of the duties prescribed by law, as pertaining to the office of port warden; and a person who knowingly employs any other than the wardens for the performance of such duties, and a person who issues any certificate of a survey on vessels, materials or goods damaged, with intent to avoid the provisions of any statute, is guilty of a misdemeanor.

2 R. S. 209, § 119.

**§ 401. Apothecary omitting to label drugs, or labeling them wrongly.** An apothecary, or druggist, or a person employed as clerk or salesman by an apothecary or druggist, or otherwise carrying on business as a dealer in drugs or medicines, who, in putting up any drugs or medicines, or making up any prescription, or filling any order for drugs or medicines, willfully, negligently or ignorantly omits to label the same, or puts any untrue label, stamp or other designation of contents upon any box, bottle or other package containing a drug or medicine, or substitutes a different article for any article prescribed or ordered, or puts up a greater or less quantity of any article than that prescribed or ordered, or otherwise deviates from the terms of the prescription or order which he undertakes to follow, in consequence of which human life or health is endangered, is guilty of a misdemeanor.

**§ 402. Apothecary selling poison without recording the sale.** An apothecary or druggist, or a person employed as clerk or salesman by an apothecary or druggist, or otherwise carrying on business as a dealer in drugs or medicines, who sells or gives any poison or poisonous substance, without first recording in a book to be kept for that purpose the name and residence of the person receiving such poison, together with the kind and quantity of such poison received and the name and residence of some person known to such dealer, as a witness to the transaction, except upon the written order or prescription of some practicing physician whose name is attached to the order, is guilty of a misdemeanor.

3 R. S. 973, §§ 26-28.

**§ 403. Refusing to exhibit record.** A person whose duty it is by the last section to keep a book for recording the sale or gift of poisons, who willfully refuses to permit any person to inspect said book upon reasonable demand made during ordinary business hours, is punishable by a fine not exceeding fifty dollars.

**§ 404. Selling poison without label.** A person who sells, gives away or disposes of any poison or poisonous substance (except upon

the order or prescription of a regularly authorized practicing physician), without attaching to the vial, box or parcel containing such poisonous substance, a label with the name and residence of such person, the word "poison," and the name of such poison all written or printed thereon in plain and legible characters; and a person who, after the first day of January, eighteen hundred and eighty-seven, sells, gives away or disposes of or offers for sale any sulphate or other preparation of opium or morphine, except paregoric and those preparations containing two grains or less of opium or morphine to the ounce, without attaching to the bottle, vial, box or package containing such sulphate or other preparation of opium or morphine, a scarlet label lettered in white letters, plainly naming the contents thereof, with the name and residence of such person, is guilty of a misdemeanor.

**§ 405. Medical prescriptions.** No person employed in a drug store or apothecary's shop shall prepare a medical prescription, unless he has served two years' apprenticeship in such a store or shop, or is a graduate of a medical college or college of pharmacy, except under the direct supervision of some person possessing one of those qualifications; nor shall any proprietor or other person in charge of such store or shop permit any person not possessing such qualifications to prepare a medical prescription in his store or shop, except under such supervision. A person violating any provision of this section is guilty of a misdemeanor, punishable by a fine not exceeding one hundred dollars, or by imprisonment not exceeding six months; and in case of death ensuing from such violation, the person offending is guilty of a felony, punishable by a fine not less than one thousand dollars nor more than five thousand dollars, or by imprisonment not less than two years nor more than four years, or by both such fine and imprisonment.

**§ 405a. [added 1893.] Regulations as to prescriptions of opium and morphine.** A person who, except on the written or verbal order of a physician, refills more than once prescriptions containing opium, morphine, or preparations of either, in which the dose of opium exceeds one-fourth grain, or morphine one-twentieth grain, is guilty of a misdemeanor.

**§ 406. Concealing foreign matter in merchandise.** A person who, with intent to defraud, while putting up in a barrel, bag, bale, box, or other package, cotton, hops, hay, or any other article of merchandise whatever, usually sold by weight in such packages, places or conceals therein any other substance or thing whatever, in a case where special provision for the punishment thereof is not otherwise made by statute, is guilty of a misdemeanor.

**§ 407. [am'd 1889, 1892.] Adulterated goods, etc.** A person who, either

1. With the intent that the same may be sold as unadulterated or *undiluted*, adulterates or dilutes wine, milk, distilled spirits or malt liquor, or any drug, medicine, food or drink, for man or beast, or,

2. Knowing that the same has been adulterated or diluted, offers for sale or sells the same as unadulterated or undiluted, or without disclosing or informing the purchaser that the same has been adulterated or diluted, in a case where special provision has not been made by statute, for the punishment of the offense, or,

3. Sells or offers to sell, or stores or transports with intent to sell for any purpose other than cooling beer in casks, ice cut from any canal or from the wide waters or basins of any canal, unless the ice so sold, or offered for sale or stored or transported, is contained in a building, cart, car, sleigh, float or receptacle upon which is plainly marked in roman or capital letters, not less than eight inches square, the words, "canal ice;" or,

4. Who shall adulterate maple sugar, maple syrup or honey, with glucose, cane sugar or syrup, beet sugar or syrup, or any other substance for the purpose of sale, or who shall knowingly sell or offer for sale maple sugar, maple syrup or honey that has been adulterated in any way, shall be deemed guilty of a misdemeanor.

§ 408. **Disposing of tainted food.** A person who, with intent that the same may be used as food, drink, or medicine, sells, or offers or exposes for sale, any article whatever which to his knowledge, is tainted or spoiled, or for any cause unfit to be used as such food, drink, or medicine, is guilty of a misdemeanor.

§ 408a. [added 1893.] **Violations of agricultural law.** Any person who disregards, disobeys or violates any proclamation, notice, order or regulation, lawfully issued or prescribed by the commissioner of agriculture for the suppression or prevention of the spread of infectious or contagious diseases among domestic animals, or who violates any of the provisions of sections eighty and eighty-two of article five of the agricultural law is guilty of a misdemeanor; every person who violates any of the provisions of article two of said chapter is guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment of not less than one month nor more than six months, or by both such fines and imprisonment for the first offense; and by six months' imprisonment for the second offense; and any person who violates any of the provisions of article three of said chapter is guilty of a misdemeanor, and shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars.

§ 409. [am'd 1889.] **Making, etc., dangerous weapons.** A person who manufactures or causes to be manufactured, or sells or keeps for sale, or offers, or gives, or disposes of any instrument or weapon of the kind usually known as slungshot, billy, sandclub or metal knuckles, or who, in any city, or incorporated village in this State, without the written consent of a police magistrate, sells or gives any pistol or other firearm to any person under the age of eighteen years, is guilty of a misdemeanor.

§ 410. [am'd 1889.] **Carrying, etc., dangerous weapons.** A person who attempts to use against another, or who, with intent so to use, carries, conceals, or possesses any instrument or weapon of the kind commonly known as the slungshot, billy, sandclub or metal knuckles, or a dagger, dirk or dangerous knife, is guilty of a felony. Any person under the age of eighteen years, who shall have, carry

have in his possession in any public street, highway or place in any city or incorporated village in the State, without a written license from a police magistrate of such city or incorporated village, any pistol or other firearm of any kind; shall be guilty of a misdemeanor. This section shall not apply to the regular and ordinary transportation of firearms as merchandise, or for use without the city or village limits.

**§ 411. Possession, presumptive evidence.** The possession, by any person other than a public officer, of any of the weapons specified in the last section, concealed or furtively carried on the person, is presumptive evidence of carrying, or concealing, or possessing, with intent to use the same in violation of that section.

**§ 412.** Repealed, 1882.

**413. [am'd 1893.] Negligently managing and refusing to extinguish fires.** A person who:

1. Willfully or negligently sets fire to, or assists another to set fire to any waste or forest lands belonging to the state or to another person whereby such forests are injured or endangered; or

2. Negligently sets fire to his own woods, by means whereof the property of another is endangered; or

3. Negligently suffers any fire upon his own land to extend beyond the limits thereof; or

4. Having been lawfully ordered to repair to a place of a fire in the woods, and to assist in extinguishing it, omits without lawful excuse to comply with the order,

Is guilty of a misdemeanor.

**§ 414. [am'd 1892.] Obstructing attempts to extinguish fires.**

A person who at any burning of a building is guilty of any disobedience to lawful orders of a public officer or fireman, or of any resistance to, or interference with, the lawful efforts of a fireman or company of firemen, to extinguish the same, or of any disorderly conduct likely to prevent the same from being extinguished, or who forbids, prevents or dissuades others from assisting to extinguish the same, is guilty of a misdemeanor.

**§ 415. [am'd 1892.] Ferries.** A person who:

1. Maintains a ferry for profit or hire upon any of the waters of this state without authority of law; or,

2. Having entered into a recognizance to keep or maintain a ferry, violates the condition of such recognizance,

Is guilty of a misdemeanor.

Where such ferry is upon waters dividing two counties, the offender may be prosecuted in either county.

**§ 415a. [added 1893.] Penalty for neglect to post schedule of ferry rates.** A person, corporation or association operating any ferry in this state, or between this state and any other state, operating from or to a city of five hundred thousand inhabitants or over, posting a false schedule of ferry rates, or neglecting to post in a conspicuous and accessible place in each of its ferry-houses, in plain view of the passengers, a schedule, plainly printed in the English language, of the rates of ferriage charged thereon and authorized by law to be charged for ferriage over such ferry, is guilty of a misdemeanor.

**§ 416. [am'd 1893.] Unlawful acts of and neglect of duty by railroad officials.** An officer, agent, attorney or employé of a railroad corporation, who :

1. Offers a place, appointment, position or any other consideration to a railroad commissioner or to a secretary, clerk, agent, employé or expert employed by the board of railroad commissioners ; or

2. After due notice, neglects or refuses to make or furnish any statement or report lawfully required by the board of railroad commissioners or willfully hinders, delays or obstructs such commissioners in the discharge of their official duties,

Is guilty of a misdemeanor.

**§ 417. [am'd 1892.] Misconduct of railroad commissioners and of their employes.** Any railroad commissioner, or any secretary, clerk, agent, expert or other person employed by the board of railroad commissioners, who :

1. Directly or indirectly solicits or requests from or recommends to any railroad corporation, or to any officer, attorney or agent thereof, the appointment of any person to any place or position; or,

2. Accepts, receives or requests, either for himself or for any other person, any pass, gift or gratuity from any railroad corporation; or,

3. Secretly reveals to any railroad corporation, or to any officer, member, or employe thereof, any information gained by him from any other railroad corporation,

Is guilty of a misdemeanor.

**§ 418. [am'd 1892.] Persons unable to read not to act or be employed as engineers.** Any person unable to read the time-tables of a railroad and ordinary hand-writing, who acts as an engineer or runs a locomotive or train on any railroad in this state; or any person who in his own behalf, or in behalf of any other person or corporation, knowingly employs a person so unable to read to act as such engineer or to run any such locomotive, is guilty of a misdemeanor.

**§ 419. [am'd 1892.] Misconduct of officials or employes on elevated railroads.** Any conductor, brakeman, or other agent or employe of an elevated railroad, who :

1. Starts any train or car of such railroad, or gives any signal or order to any engineer or other person to start any such train or car, before every passenger therein who manifests an intention to depart therefrom by arising, or moving toward the exit thereof, has departed therefrom; or before every passenger on the platform or station at which the train has stopped, who manifests a desire to enter the train, has actually boarded or entered the same, unless due notice is given by an authorized employe of such railroad that the train is full, and that no more passengers can then be received; or,

2. Obstructs the lawful ingress or egress of a passenger to or from any such car; or,

3. Opens a platform gate of any such car while the train is in motion, or starts such train before such gate is firmly closed;

Is guilty of a misdemeanor.

**§ 420. [am'd 1892.] Intoxication or other misconduct of railroad or steamboat employes.** 1. Any person who, being employed upon any railway as engineer, conductor, baggagemaster, brakeman, switch-tender, fireman, bridge tender, flagman, signal man, or his



charge of stations, starting, regulating or running trains upon a railroad, or being employed as captain, engineer or other officer of a vessel propelled by steam, is intoxicated while engaged in the discharge of any such duties; or

2. An engineer, conductor, brakeman, switch-tender, or other officer, agent or employe of any railroad corporation, who willfully violates or omits his duty as such officer, agent or employe, by which human life or safety is endangered, the punishment of which is not otherwise prescribed;

Is guilty of a misdemeanor.

§ 421. [am'd 1891.] **Duties of locomotive engineers.** A person acting as engineer, driving a locomotive on any railway in this state, who fails to ring the bell, or sound the whistle, upon such locomotive, or cause the same to be rung or sounded, at least eighty rods from any place where such railway crosses a traveled road or street on the same level (except in cities) or to continue the ringing such bell or sounding such whistle at intervals, until such locomotive, and the train to which the locomotive is attached, shall have completely crossed such road or street, or any officer of a corporation who shall wilfully obstruct, or cause to be obstructed, any farm or highway crossing with any locomotive or car for a longer period than five consecutive minutes, is guilty of a misdemeanor.

§ 422. [am'd 1889]. **Placing other cars before passenger cars.** A person being an officer or employee of a railway company, who knowingly places, directs, or suffers a freight, lumber, merchandise or oil car to be placed in rear of a car used for the conveyance of passengers in a railway train is guilty of a misdemeanor.

§ 423. [am'd 1892.] **Platforms and heating apparatus of passenger cars.** A railroad corporation, or any officer or director thereof having charge of its railroad, or any person managing a railroad in this state, or any person or corporation running passenger cars upon a railroad into or through this state, who:

1. Fails to have the platforms or ends of the passenger cars run upon such railroad constructed in such manner as will prevent passengers falling between the cars when in motion; or,

2. Except temporarily, in case of accident or emergency, heats any passenger car, while in motion, on any such railroad more than fifty miles in length, except a narrow-gauge railroad which runs only mixed trains, between October fifteenth and May first, by any stove or furnace inside of or suspended from such car, except stoves of a pattern and kind approved by the board of railroad commissioners for cooking purposes in dining-room cars, and except within the extended time allowed by the railroad commissioners, in pursuance of law, for introducing other heating apparatus;

Is guilty of a misdemeanor.

§ 424. [am'd 1892.] **Guard posts; automatic couplers.** All corporations and persons other than employes, operating any steam railroad in this state,

1. Failing to cause guard posts to be placed in the prolongation of the line of bridge trusses upon such railroad, so that, in case of derailment, the posts and not the trusses shall receive the blow of the derailed locomotive or car; or

2. Failing after November 1st, 1892, to equip all of their own engines and freight cars, run and used in freight or other trains on such railroad, with automatic self-couplers, or running or operating on such railroad any freight car belonging to any such person or corporation, without having the same equipped, except in case of accident or other emergency, with automatic self-couplers, and except within the extended time allowed by the board of railroad commissioners, in pursuance of law, for equipping such car with such couplers;

Is guilty of a misdemeanor, punishable by a fine of five hundred dollars for each offense.

§ 425. **Officers of railroad companies to be uniformed.** A person who,

1. Advises or induces any one, being an officer, agent or employee of a railway company, to leave the service of such company, because it requires a uniform to be worn by such officer, agent or employee, or to refuse to wear such uniform, or any part thereof; or

2. Uses any inducement with a person employed by a railway company to go into the service or employment of any other railway company, because a uniform is required to be worn; or

3. Wears the uniform designated by a railway company without authority;

Is guilty of a misdemeanor.

§ 426. [*am'd* 1890.] **Riding on freight trains.**—A person who rides any engine or any freight or wood car of any railway company, without authority or permission of the proper officers of the company or of the person in charge of said car or engine; or

2. Who gets on any car or train while in motion (for the purpose of obtaining transportation thereon as a passenger); or

3. Who willfully obstructs, hinders or delays the passage of any car lawfully running upon any steam or horse, or street railway,

Is guilty of a misdemeanor.

§ 427. **Knife throwing, etc.; life-saving apparatus at bathing, etc.** A person who, being lessee or occupant of any place of amusement, or any plot of ground or building, uses it or allows it to be used for the exhibition of skill, in throwing any sharp instrument at or toward any human being; or aims or discharges any bow-gun, pistol or fire-arm of any description whatever, or allows one to be aimed or discharged at or towards any human being; or who being owner, lessee, proprietor or manager of any surf-bathing place, neglects, at any time during the bathing season, to maintain surf or life boats, or other life-saving apparatus, duly equipped and manned in the manner and to the extent prescribed by law,

Is guilty of a misdemeanor.

**§ 428. Violating law to prevent conflagrations.** A person who violates any of the provisions of an act to prevent conflagrations, passed May 19, 1879, is guilty of a misdemeanor, triable as therein prescribed.

**§ 429. [Am'd 1894.] Ice cuttings and Bridges.**—A person or corporation cutting ice in or upon any waters within the boundaries of this state, for the purpose of removing the ice for sale or use, must surround the cuttings and openings made, with fences of bushes or other guards sufficient to warn all persons of such cuttings and openings. Such fences or guards must be erected at or before the time of commencing the cuttings or openings, and must be maintained until ice has again formed therein to the thickness of at least three inches, or until the ice about such openings has melted or broken up. Whoever omits to comply with this section, is guilty of a misdemeanor. A person who cuts, loosens or detaches from any bay, estuary, inlet, or main, or island shore of the St. Lawrence river, within the jurisdiction of this state, any field of ice, or large body of ice, used or suited for use, as a bridge or passage way between an island of the river and the main shore, or between any islands of such river, is guilty of a misdemeanor.

**§ 429a. [Added 1894 to § 429.]**

**§ 430. Articles in imitation of food.** A person, who sells or manufactures, exposes or offers for sale as an article of food, any substance in imitation thereof, without disclosing the imitation by a suitable and plainly visible mark or brand, is guilty of a misdemeanor.

**§ 431. Noisome or unwholesome substances, etc., in highway**  
A person, who deposits, leaves or keeps, on or near a highway or route of public travel, either on the land or on the water, any noisome or unwholesome substance, or establishes, maintains or carries on, upon or near a public highway or route of public travel, either on the land or on the water, any business, trade or manufacture which is noisome or detrimental to public health, is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars, or by imprisonment not less than three nor more than six months, or both.

**§ 432. Ambulances.** A person who willfully stops or obstructs the passage of any ambulance or vehicle used for the transportation of sick or wounded persons or animals upon any public street, highway or place, or who willfully injures the same, or willfully drives any vehicle into collision therewith, is guilty of a misdemeanor. All sheriffs, constables and police officers must, when called upon by the persons in charge of such ambulance or vehicle, aid in placing sick or wounded persons or animals therein, and in enforcing the provisions of this section.

**§ 433. Using net or weir unlawfully in Hudson river.** A person, who uses any net or weir for setting or attaching nets, or a pole or other fixture in any part of the river Hudson, except as permitted by statute, is guilty of a misdemeanor.

**§ 433a. [added 1893.] Lights upon swing bridges.** A corporation, company or individual, owning, maintaining or operating a swing bridge across the Hudson river, who during the navigation season between sundown and sunrise, neglects to keep and maintain upon every such bridge the lights required by law, is guilty of a misdemeanor.

**§ 434. Exposing person affected with a contagious disease, in a public place.** A person, who willfully exposes himself or another, affected with any contagious or infectious disease, in any public place or thoroughfare, except upon his necessary removal in a manner not dangerous to the public health is guilty of a misdemeanor.

**§ 435. False rumors as to public funds, etc.** A person, who, with intent to affect the market price of the public funds of this state or of the United States, or of any state or territory thereof, or of a foreign country or government, or of the stocks, bonds, or other evidences of debt of a corporation or association, or the market price of gold or silver coin or bullion, or any merchandise or commodity whatever,

1. Without lawful authority, falsely signs the name of an officer of a corporation, or of any other person to a letter, message, or other paper; or

2. Utters or circulates such a letter, message, or paper, knowing that the same has been so falsely signed; or

3. Knowingly circulates any false statement, rumor, or intelligence;

Is punishable by a fine of not more than five thousand dollars, or by imprisonment for not more than three years, or both.

**§ 436. Eavesdropping.**—A person, who secretly loiters about a building, with intent to overhear discourse therein, and to repeat or publish the same to vex or annoy or injure others, is guilty of a misdemeanor.

**§ 437. Destroying invoice.** A person, who willfully destroys or suppresses an invoice, bill of lading, or any other document, writing, or thing whatever, which tends to show the ownership of wrecked property, is guilty of a misdemeanor.

**§ 438. [am'd 1889.] False labels.** A person who, with intent to defraud, either.

1. Puts upon an article of merchandise, or upon a cask, bottle, stopper, vessel, case, cover, wrapper, package, band, ticket, label or other thing, containing or covering such an article, or with which such an article is intended to be sold, or is sold, any false description or other indication of or respecting the kind, number, quantity, weight or

measure of such article, or any part thereof, or the place or country where it was manufactured or produced or the quality or grade of any such article, if the quality or grade thereof is required by law to be marked, branded, or otherwise indicated on or with such article; or

2. Sells or offers for sale an article, which to his knowledge is falsely described or indicated upon any such package, or vessel containing the same, or label thereupon, or any of the particulars specified; or

3. Sells or exposes for sale any goods in bulk to which no name or trade-mark shall be attached, and orally or otherwise represents that such goods are the manufacture or production of some other than the actual manufacturer or producer, in a case where the punishment for such offense is not specially provided for otherwise by statute; is guilty of a misdemeanor.

**§ 438a. [added 1893.] Using false marks as to manufacture.** A person who, with intent to defraud or to enable another to defraud any person, manufactures or knowingly sells or causes to be manufactured or sold, any article, marked, stamped or branded or encased or inclosed in any box, bottle or wrapper having thereupon any engraving or printed label, stamp, imprint, mark or trade mark which article is not the manufacture, workmanship or production of the person named, indicated or denoted by such marking, stamping or branding, or by or upon such engraving, printed label, stamp, imprint, mark or trade mark, is guilty of a misdemeanor.

**§ 438b. [added 1893.] Penalty for selling half wine not labeled.** A person who sells, offers for sale or manufactures with intent to sell, any wine known as "half wine," which is not stamped, marked or labeled as required by law, is guilty of a misdemeanor.

**§ 439. Skimmed milk.** A person, who sells or offers for sale, milk from which the whole or a part of the cream has been skimmed or removed, without disclosing the fact, or having a mark or label, plainly and legibly stating the fact, conspicuously affixed to every can or vessel containing the same, under circumstances not constituting an offense, for the punishment of which provision is otherwise specially made by statute, is guilty of a misdemeanor.

**§ 440. Master of vessel bringing foreign convict.** A person, being the master or commander of any vessel, or boat, arriving from a foreign country, who knowingly brings into this state a person who has been, or is a foreign convict of any offense, which if committed in this state would be punishable therein, is guilty of a misdemeanor.

**§ 441. Non-resident taking or planting oysters.** A person, who not being at the time an actual inhabitant and resident of this state, plants oysters in the waters of this state, without the consent of the owner of the same, or of the shore, or gathers oysters or other shell fish from their beds of natural growth, in any such waters on

his own account or for his own benefit, or the benefit of a non-resident employer, is guilty of a misdemeanor, punishable by imprisonment not exceeding six months, or by a fine not exceeding one hundred dollars, or both.

§ 442. [*am'd 1888.*] **Use of certain dredges.** A person who uses a dredge or drag operated by steam, or any dredge or drag weighing over thirty pounds, for the purpose of catching or taking oysters or other shell fish from beds of natural growth in the waters of this State is guilty of a misdemeanor.

§ 443. **Mock auction.** A person who buys or sells, or pretends to buy or sell, any goods, wares, or merchandise, or any species of property, except ships, vessels, or real or leasehold estate, exposed for sale by auction, if an actual sale, purchase, and change of ownership therein does not thereupon take place, is guilty of a misdemeanor, punishable by imprisonment for thirty days, or by fine not exceeding one hundred dollars, or both.

§ 444. **Interfering with navigation.** A person who throws, or causes, or permits to be thrown, from any boat, scow, or other vessel, or in any other manner, into any of the navigable waters of this state, including bays, sounds and harbors, any earth, ashes, cinders, stone, or other material, or who builds any structure therein, which will in any manner lessen the depth of such waters, or interfere with the free and safe navigation thereof, is guilty of a misdemeanor.

§ 445. **Maintaining private insane asylums.** A person who conducts or maintains a private insane asylum, or institution for the care or treatment of persons of unsound mind, without a license issued and granted to such person according to law, is guilty of a misdemeanor.

§ 446. **Entry into agricultural fair grounds.** A person who wrongfully and fraudulently enters any agricultural fair grounds, without paying the entrance fee, is guilty of a misdemeanor.

§ 447. **Drugging person, etc.** A person who administers any drug or stupefying substance to another, with the intent, while such person is under the influence thereof, to induce such person to enter the military or naval service of the United States, of this state, or any other state, country or government, is guilty of a misdemeanor.

§ 447a: [*added 1893.*] **Negligently furnishing insecure scaffolding:** A person or corporation employing or directing another to do or perform any labor in the erection, repairing, altering or painting any house, building or structure within this state, who knowingly or negligently furnishes or erects or causes to be furnished for

erection for and in the performance of such labor, unsuitable or improper scaffolding, hoists, stays, ladders or other mechanical contrivances not giving proper protection to the life and limb of any person so employed or engaged, is guilty of a misdemeanor.

### TITLE XIII.

#### OF CRIMES AGAINST THE PUBLIC PEACE.

**SECTION 448.** Disturbing lawful meetings.

449. "Riot" defined.

450. Punishment of riot.

451. Unlawful assemblies.

452. Disguised and masked persons, etc.

453. Allowing masquerades to be held in places of public resort.

454. Remaining present at place of riot, etc., after warning.

455. Remaining present at a meeting, originally lawful, after it has adopted an unlawful purpose.

456. Refusing to assist in arresting rioter.

457. Combinations to resist execution of process.

458. Prize fighting, aiding therein, etc.

459. What is a challenge.

460. Betting or stakholding on fight.

461. Fight out of state.

462. Indictment.

463. Apprehension of persons about to fight.

464. Same.

465. Forcible entry and detainer.

466. Returning to take possession of lands after being removed by legal process.

467. Unlawful intrusion, etc.

468. Discharging fire-arms in public places.

469. Witnesses' privilege.

**§ 448. Disturbing lawful meetings.** A person who, without authority of law, willfully disturbs any assembly or meeting, not unlawful in its character, is guilty of a misdemeanor.

3 R. S. 951, § 67.

**§ 449. "Riot" defined.** Whenever three or more persons, having assembled for any purpose, disturb the public peace, by using force or violence to any other person, or to property, or threaten or attempt to commit such disturbance, or to do an unlawful act by the use of force or violence, accompanied with the power of immediate execution of such threat or attempt, they are guilty of riot.

**§ 450. Punishment of riot.** A person guilty of riot, or of participating in a riot, either by being personally present, or by instigating, promoting, or aiding the same, is punishable as follows:

1. If the purpose of the assembly, or of the acts done or threat

ened or intended by the persons engaged, is to resist the enforcement of a statute of this state, or of the United States, or to obstruct any public officer of this state, or of the United States, in serving or executing any process or other mandate of a court of competent jurisdiction, or in the performance of any other duty ; or if the offender carries, at the time of the riot, fire-arms or any other dangerous weapon, or is disguised ; by imprisonment for not more than five years, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment ;

2. In any other case, if the offender directs, advises, encourages, or solicits other persons, present or participating in the riot or assembly, to acts of force or violence, by imprisonment for not more than two years, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment .

3. In any case, not embraced within the foregoing subdivisions of this section, by imprisonment for not more than one year, or by a fine of not more than two hundred and fifty dollars, or by both such fine and imprisonment.

**§ 451. Unlawful assemblies.** Whenever three or more persons,

1. Assemble with intent to commit any unlawful act by force ; or

2. Assemble, with intent to carry out any purpose, in such a manner as to disturb the public peace ; or

3. Being assembled, attempt or threaten any act tending towards a breach of the peace or an injury to person or property, or any unlawful act ;

Such an assembly is unlawful ; and every person participating therein, by his presence, aid, or instigation, is guilty of a misdemeanor.

But this section shall not be so construed as to prevent the peaceable assembling of persons for lawful purposes of protest or petition.

**§ 452. Disguised and masked persons, etc.** An assemblage in public houses or other places of three or more persons disguised by having their faces painted, discolored, colored or concealed, is unlawful, and every individual so disguised, present thereat, is guilty of a misdemeanor ; but nothing contained in this section shall be construed as prohibiting any peaceful assemblage for a masquerade or fancy dress ball or entertainment, or any assemblage thereof of persons masked, or as prohibiting the wearing of masks, fancy dresses, or other disguise by persons on their way to or returning from such ball or other entertainment ; if, when such masquerade, fancy dress ball or entertainment is held in any of the cities of this state, permission is first obtained from the police authorities in such cities respectively for the holding or giving thereof, under such regulations as may be prescribed by such police authorities.



**§ 453. Allowing masquerades to be held in places of public resort.** A person being a proprietor, manager or keeper of a theatre, circus, public garden, public hall, or other place of public meeting, resort or amusement, for admission to which any price or payment is demanded, who permits therein any assemblage of persons masked, prohibited in this title, is guilty of a misdemeanor, punishable by imprisonment in a state prison not exceeding two years, or in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars and not less than one thousand dollars, or by both such fine and imprisonment.

**§ 454. Remaining present at place of riot, etc., after warning.** A person, remaining present at the place of an unlawful assembly or riot, after the persons assembled have been warned to disperse by a magistrate or public officer, is guilty of a misdemeanor, unless as a public officer, or at the request or command of a public officer, he is endeavoring or assisting to disperse the same, or to protect persons or property, or to arrest the offenders.

**§ 455. Remaining present at place of a meeting, originally lawful, after it has adopted an unlawful purpose.** Where three or more persons assemble for a lawful purpose, and afterwards proceed to commit an act that would amount to a riot, if it had been the original purpose of the meeting, every person who does not retire when the change of purpose is made known, or such act is committed, except public officers and persons assisting them in attempting to disperse the assembly, is guilty of a misdemeanor.

**§ 456. Refusing to assist in arresting rioter.** A person, present at the place of an unlawful assembly or riot, who, being commanded by a duly authorized public officer to act or aid in suppressing the riot, or in protecting persons or property, or in arresting a person guilty of or charged with participating in the unlawful assembly or riot, neglects or refuses to obey such command, is guilty of a misdemeanor.

**§ 457. Combinations to resist execution of process.** A person who enters into a combination with another to resist the execution of any legal process, or other mandate of a court of competent jurisdiction, under circumstances not amounting to a riot, is guilty of a misdemeanor.

3 R. S. 979, § 75.

**§ 458. Prize fighting, aiding therein, etc.** A person who, within this state, engages in, instigates, aids, encourages or does any act to further, a contention or fight without weapons between two or

more persons, or a fight commonly called a ring or prize fight, either within or without the state, or who sends or publishes a challenge or acceptance of a challenge for such a contention or fight, or carries or delivers such a challenge or acceptance, or trains or assists any person in training or preparing for such a contention or fight, is guilty of a misdemeanor.

3 R. S. 963, § 8.

**§ 459. What is a challenge.** Any words spoken or written, or any signs uttered or made to any person, expressing or implying, or intended to express or imply a desire, request, invitation or demand to engage in any fight, such as is mentioned in section 458, are to be deemed a challenge within the meaning of that section.

**§ 460. Betting or stakeholding on fight.** A person who bets, stakes, or wagers money or other property, upon the result of such a fight or encounter, or who holds or undertakes to hold money or other property so staked or wagered, to be delivered to or for the benefit of the winner thereof, is guilty of a misdemeanor.

**§ 461. Fight out of state.** A person who leaves the state, with intent to elude any provision of this title, or to commit any act without the state, which is prohibited by this title, or who, being a resident of this state, does any act without the state, which would be punishable by the provisions of this title, if committed within the state, is guilty of the same offense and subject to the same punishment, as if the act had been committed within this state.

3 R. S. 963, § 5.

**§ 462. Indictment.** An indictment for an offense specified in the last section, may be tried in any county within the state.

**§ 463. Apprehension of persons about to fight.** A magistrate having power to issue warrants in criminal cases, to whom it is made to appear that there is reasonable ground to apprehend that an offense specified in sections 458, 460 and 461 is about to be committed within his jurisdiction, or by any person being within his jurisdiction, must issue his warrant to a sheriff or constable, or other proper officer, for the arrest of the person or persons so about to offend. Upon a person being arrested and brought before him by virtue of the warrant, he must inquire into the matter, and, if it appears that there is reasonable ground to believe that the person arrested is about to commit any offense, the magistrate must require him to give a bond to the people of the state in such a sum, not exceeding one thousand dollars, as the magistrate may fix, either with or without

sureties in his discretion, conditioned that such person will not, for one year thereafter, commit any such offense.

**§ 464. Same.** If the person arrested, as prescribed in the last section, does not furnish a bond as prescribed therein, within a time fixed by the magistrate, the latter must commit him to the county jail, there to remain until discharged by a court of record having criminal jurisdiction. A person so committed may, at any time, be discharged upon a writ of habeas corpus, upon his executing the bond required by the committing magistrate. If the bond is required to be given with one or more sureties, the surety or sureties must be approved by the officer taking the same.

**§ 465. Forcible entry and detainer.** A person, guilty of using, or of procuring, encouraging or assisting another to use, any force or violence in entering upon or detaining any lands or other possessions of another, except in the cases and the manner allowed by law, is guilty of a misdemeanor.

**§ 466. Returning to take possession of lands after being removed by legal process.** A person, who has been removed from any lands by process of law, or who has removed from any lands pursuant to the lawful adjudication or direction of any court, tribunal or officer, and who afterwards, without authority of law, returns to settle or reside upon or take possession of such lands, is guilty of a misdemeanor.

**§ 467. Unlawful intrusion, etc.** A person, who intrudes upon any lot or piece of land within the bounds of a city or village, without authority from the owner thereof, or who erects or occupies thereon any hut, or other structure whatever without such authority; and a person who places, erects, or occupies within the bounds of any street or avenue of a city or village, any hut, or other structure, without lawful authority, is guilty of a misdemeanor.

**§ 468. [am'd 1893.] Discharging fire-arms.** A person who otherwise than in self defense, or in the discharge of official duty:

1. Willfully discharges any species of fire-arms, air-gun or other weapon, or throws any other deadly missile in a public place or in any place where there is any person to be endangered thereby, although no injury to any person ensues; or

2. Intentionally, without malice, points or aims any fire-arm at or toward any other person; or

3. Discharges, without injury to any other person, fire-arms, while intentionally without malice, aimed at or toward any person; or

4. Maims or injures any other person by the discharge of any fire-arm pointed or aimed intentionally, but without malice, at any such person,

Is guilty of a misdemeanor.

**§ 469. Witnesses' privilege.** No person shall be excused from giving evidence upon an investigation or prosecution for any of the offenses specified in this title, upon the ground that the evidence might tend to convict him of a crime. But such evidence shall not be received against him upon any criminal proceeding.

3 R. S. 964, § 12.

## TITLE XIV.

### OF CRIME AGAINST THE REVENUE AND PROPERTY OF THE STATE.

**SECTION 470.** Misappropriation, etc., and falsification of accounts by public officers.

471. Other violations of law.

472. Misappropriation, etc., by county treasurer.

473. Officer authorized to make any sale, lease or contract, becoming interested under it.

474. County clerks omitting to publish statement required by law.

475. Obstructing officer in collecting revenue.

476. Delivering false bill of lading to canal collector.

477. Weighmaster making false entry of weight of canal boat.

478. Canal officer concealing frauds upon the revenue.

479. Willful injuries to the canals.

480. Drawing off water from canals.

481. Canal officer accepting bribe to allow water to be drawn off from canals.

482. Fraudulent appropriation of lost treasure, or waived property.

483. Injuries to the salt works.

484. Seizing military stores belonging to the state.

485. Making false statement in reference to taxes.

485a. School district trustee not to draw draft.

**§ 470. Misappropriation, etc., and falsification of accounts by public officers.** A public officer, or a deputy, or clerk of any such officer, and any other person receiving money on behalf of, or for account of the people of this state, or of any department of the government of this state, or of any bureau or fund created by law, and in which the people of this state are directly or indirectly interested, or for or on account of any city, county, village or town, who

1. Appropriates to his own use, or to the use of any person not entitled thereto, without authority of law, any money so received by him as such officer, clerk or deputy, or otherwise; or

2. Knowingly keeps any false account, or makes any false entry or erasure in any account of, or relating to, any money so received by him; or

3. Fraudulently alters, falsifies, conceals, destroys or obliterates any such account; or

4. Willfully omits or refuses to pay over to the people of this state or their officer or agent authorized by law to receive the same, or to such city, village, county, or town, or the proper officer or authority empowered to demand and receive the same, any money

received by him as such officers when it is his duty imposed by law to pay over, or account for, the same ;

Is guilty of felony.

**§ 471. Other violations of law.** An officer or other person mentioned in the last section who willfully disobeys any provision of law regulating his official conduct, in cases other than those specified in that section is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars, or imprisonment not exceeding two years, or both.

**§ 472. Misappropriation, etc., by county treasurer.** A county treasurer who willfully misappropriates any moneys, funds or securities, received by or deposited with him as such treasurer, or who is guilty of any other malfeasance or willful neglect of duty in his office, is punishable by a fine not less than five hundred dollars nor more than ten thousand dollars, or by imprisonment in a state prison not less than one year or more than five years, or by both such fine and imprisonment.

**§ 473. [am'd 1890.] Officials not to be interested in contracts, etc.**—A public officer or school officer, who is authorized to sell or lease any property, or to make any contract in his official capacity, or to take part in making any such sale, lease or contract, who voluntarily becomes interested individually in such sale, lease or contract, directly or indirectly, except in cases where such sale, lease or contract, or payment under the same, is subject to audit or approval by the superintendent of public instruction, is guilty of a misdemeanor.

**§ 474. County clerks omitting to publish statements required by law.** A county clerk who willfully omits to publish any statement required by law, within the time prescribed, is guilty of a misdemeanor, punishable by a fine of one hundred dollars, or imprisonment for six months, or both.

**§ 475. Obstructing officer in collecting revenue.** A person who willfully obstructs or hinders a public officer from collecting any revenue, taxes or other sum of money in which, or in any part of which the people of this state are directly or indirectly interested, and which such officer is by law empowered to collect, is guilty of a misdemeanor.

**§ 476. Delivering false bill of lading to canal collector.** A person whose duty it is to deliver to any collector of tolls upon any of the canals belonging to this state, a bill of lading of any property transported upon such canal, who delivers a false bill of lading as true, or makes or signs a false bill of lading, intending it to be deliv-

ered as true, knowing such bill to be false, is punishable by imprisonment in a state prison not exceeding two years, or by a fine not exceeding three times the value of the property omitted in such bill, or both

1 R. S. 692, §§ 293-297.

**§ 477. Weighmaster making false entry of weight of canal boat.** A weighmaster upon any of the canals belonging to this state, and a clerk of such weighmaster, who makes a false entry of the weight of any boat, or cargo of any boat, navigating such canal, or who makes a false certificate of the light weight of any boat, knowing such entry or certificate to be false, is guilty of a misdemeanor.

**§ 478. Canal officer concealing frauds upon the revenue.** A public officer or agent employed by the people of this state in relation to the canals belonging to this state, who knows, or has good reason to believe that any fraud upon the revenues of the canals has been committed or attempted, and who omits to disclose the same, and enforce the penalties therefor, if within his power, is guilty of a misdemeanor.

**§ 479. Willful injuries to the canals.** A person who, without authority of law, willfully inflicts an injury upon any of the canals belonging to this state, or disturbs or injures any of the boats, locks, bridges, buildings, machinery or other works or erections connected with any such canal, and in which the people of this state have an interest, is guilty of felony.

1 R. S. 700, §§ 366-369.

**§ 480. Drawing off water from canals.** A person who draws water from any canal in this state, or from a feeder or reservoir of any canal, during the season of navigation of the canal, and to the detriment or injury of the navigation thereof, without authority of law, is punishable by imprisonment in a county jail not less than one year, and by a fine not less than one thousand dollars.

3 R. S. 685, § 252.

**§ 481. Canal officer accepting bribe to allow water to be drawn off from canals.** A public officer or agent employed by the people of this state in relation to the canals belonging to the state, or a contractor for canal repairs, or person having charge of any canal, or any part thereof, or of any lock, waste weir, feeder or other work belonging thereto, or being employed thereon, who asks, or accepts or promises to accept any bribe as an inducement to permit water to be drawn from a canal, feeder or reservoir in violation of the last section; and a person who gives, or offers or promises to give to any officer or person above mentioned, any bribe as an inducement to him

to permit water to be drawn from any canal, feeder or reservoir in violation of this section, is guilty of a misdemeanor.

1 R. S. 699, § 359.

**§ 482. Fraudulent appropriation of lost treasure, or waived property.** A person who fraudulently conceals or appropriates to his own use any lost treasure or any waived property belonging to this state by virtue of its sovereignty, is guilty of a misdemeanor.

**§ 483. Injuries to the salt works.** A person who willfully burns, destroys, or injures any salt manufactory connected with the Onondaga salt springs, or any building appurtenant to such manufactory or any part of such manufactory, or any of the buildings, reservoirs, pumps, conductors or water conduits, belonging to this state, used in the raising of salt water for the manufacture of salt, without authority of law, is punishable by imprisonment in a state prison not exceeding five years.

**§ 484. Seizing military stores belonging to the state.** A person who enters any fort, magazine, arsenal, armory, arsenal yard or encampment, and seizes or takes away any arms, ammunition, military stores or supplies belonging to the people of this state; and a person who enters any such place with intent so to do, is punishable by imprisonment in a state prison not exceeding ten years.

3 R. S. 973, § 74.

**§ 485. Making false statement in reference to taxes.** A person, who, in making any statement, oral or written, which is required or authorized by law to be made as the basis of imposing any tax or assessment, or of an application to reduce any tax or assessment, willfully makes, as to any material matter, any statement which he knows to be false, is guilty of a misdemeanor.

**§ 485a. [added 1893.] School district trustee not to draw draft on supervisor in certain cases.** A school district trustee who issues an order or draws a draft on supervisor or collector for any money, unless there is at the time sufficient money in the hands of such supervisor or collector belonging to the district to meet such order or draft, is guilty of a misdemeanor.

## TITLE XV.

### OF CRIMES AGAINST PROPERTY.

- CHAPTER
- I. Arson.
  - II. Burglary and housebreaking.
  - III. Forgery and counterfeiting.
  - IV. Larceny, including embezzlement.
  - V. Extortion.
  - VI. False personation, and cheats.
  - VII. Fraudulently fitting out and destroying ships and vessels.
  - VIII. Fraudulent destruction of property insured.
  - IX. False weights and measures.
  - X. Fraudulent insolvencies by individuals.

- XI. Fraudulent insolvencies by corporations, and other frauds in their management.
- XII. Frauds in the sale of passage tickets.
- XIII. Frauds relative to documents of title to merchandise.
- XIV. Malicious mischief.

## CHAPTER I

### ARSON.

#### SECTION 486. Arson in first degree defined.

- 487. Id. ; in second degree.
- 488. Id. ; in third degree.
- 489. Arson, how punished.
- 490. Intent to destroy building requisite.
- 491. Contiguous buildings.
- 492. " Night time," defined.
- 493. " Building," defined.
- 494. " Inhabited building," defined.
- 495. Ownership of building.

§ 486. **Arson in first degree defined.** A person who willfully burns, or sets on fire, in the night time, either

1. A dwelling-house in which there is, at the time, a human being ; or

2. A car, vessel, or other vehicle, or a structure or building other than a dwelling-house, wherein, to the knowledge of the offender, there is, at the time, a human being ;

Is guilty of arson in the first degree.

3 R. S. 929, § 9.

#### § 487. Id. ; in second degree. A person who,

1. Commits an act of burning in the day time, which, if committed in the night time, would be arson in the first degree ;

2. Willfully burns, or sets on fire, in the night time, a dwelling-house, wherein, at the time, there is no human being ; or

3. Willfully burns, or sets on fire, in the night time, a building not inhabited, but adjoining or within the curtilage of an inhabited building, in which there is, at the time, a human being, so that the inhabited building is endangered, even though it is not in fact injured by the burning ; or

4. Willfully burns, or sets on fire, in the night time, a car, vessel, or other vehicle, or a structure or building, ordinarily occupied at night by a human being, although no person is within it at the time ;

Is guilty of arson in the second degree.

3 R. S. 939, § 2.



§ 488. *Id.* ; in third degree. A person who willfully burns, or sets on fire, either

1. A vessel, car, or other vehicle, or a building, structure, or other erection, which is, at the time, insured against loss or damage by fire, with intent to prejudice the insurer thereof ; or

2. A vessel, car, or other vehicle, or a building, structure, or other erection, under circumstances not amounting to arson in the first or second degree ;

Is guilty of arson in the third degree.

§ 489. [*am'd* 1892.] **Arson, how punished.** Arson is punishable as follows:

1. In the first degree, by imprisonment for any term not less than ten years.

2. In the second degree, by imprisonment for a term not exceeding fifteen years.

3. In the third degree, by imprisonment for a term not exceeding seven years.

§ 490. **Intent to destroy building requisite.** The burning of a building under circumstances which shows, beyond a reasonable doubt that there was no intent to destroy it, is not arson.

§ 491. **Contiguous buildings.** Where an appurtenance to a building is so situated with reference to such building, or where any building is so situated with reference to another building that the burning of the one will manifestly endanger the other, a burning of the one is deemed a burning of the other, within the foregoing provisions, against any person actually participating in the original setting on fire, as of the moment when the fire from the one communicates to and sets on fire the other.

3 R. S. 939, § 2.

§ 492. **"Night time," defined.** The words "night time," as used in this chapter, include the period between sunset and sunrise, and every building or structure, which shall have been usually occupied by persons lodging therein at night, is a dwelling-house within the meaning of this chapter.

§ 493. **"Building," defined.** Any house, vessel or other structure, capable of affording shelter for human beings, or appurtenant to, or connected with a structure so adapted, is a "building" within the meaning of this chapter.

§ 494. **"Inhabited building," defined.** A building is deemed an "inhabited building" within the meaning of this chapter, any

part of which has usually been occupied by a person lodging therein at night.

§ 495. **Ownership of building.** To constitute arson it is not necessary that another person than the defendant should have had ownership in the building set on fire.

## CHAPTER II.

### BURGLARY.

**SECTION 496.** Burglary in first degree defined.

497. Id.; in second degree.

498. Id.; in third degree.

499. "Break," defined.

500. "Night time," defined.

501. "Enter," defined.

502. "Dwelling-house," defined.

503. Dwelling-houses, etc., when deemed separate.

504. "Building," defined.

505. Unlawfully entering building.

506. Burglar punishable separately for crime in building.

507. Burglary, how punished.

508. Possessing burglar's instruments, etc.

§ 496. **Burglary in first degree defined.** A person, who, with intent to commit some crime therein, breaks and enters, in the night time, the dwelling-house of another, in which there is at the time a human being,

1. Being armed with a dangerous weapon ; or

2. Arming himself therein with such a weapon ; or

3. Being assisted by a confederate actually present ; or

4. Who, while engaged in the night time in effecting such entrance, or in committing any crime in such a building, or in escaping therefrom, assaults any person ;

Is guilty of burglary in the first degree.

3 R. S. 940, § 11.

§ 497. **Id.; in second degree.** A person who, with intent to commit some crime therein, breaks and enters the dwelling-house of another in which there is a human being, under circumstances not amounting to burglary in the first degree, is guilty of burglary in the second degree.

3 R. S. 940, §§ 12-13.

§ 498. **Id. ; in third degree.** A person who either

1. With intent to commit a crime therein, breaks and enters a building, or a room, or any part of a building ; or

2. Being in any building, commits a crime therein and breaks out of the same ;

Is guilty of burglary in the third degree.

3 R. S. 941, §§ 18, 19.

§ 499. **"Break," defined.** The word "break," as used in this chapter, means and includes

1. Breaking or violently detaching any part, internal or external, of a building ; or

2. Opening, for the purpose of entering therein, by any means whatever, any outer door of a building, or of any apartment or set of apartments therein separately used or occupied, or any window, shutter, scuttle, or other thing, used for covering or closing an opening thereto or therein, or which gives passage from one part thereof to another ; or

3. Obtaining an entrance into such a building or apartment, by any threat or artifice used for that purpose, or by collusion with any person therein ; or

4. Entering such a building or apartment by or through any pipe, chimney, or other opening, or by excavating, digging, or breaking through or under the building, or the walls or foundation thereof.

3 R. S. 941, §§ 20, 21.

§ 500. **"Night time," defined.** The words "night time," in this chapter, include the period between sunset and sunrise.

§ 501. **"Enter," defined.** The word "enter," as used in this chapter, includes the entrance of the offender into such building or apartment, or the insertion therein of any part of his body or of any instrument or weapon held in his hand, and used, or intended to be used, to threaten or intimidate the inmates, or to detach or remove property.

§ 502. **"Dwelling-house," defined.** A building, any part of which is usually occupied by a person lodging therein at night, is, for the purposes of this chapter, deemed a dwelling-house.

3 R. S. 941, § 17.

§ 503. **Dwelling-houses, etc., when deemed separate.** If a building is so constructed as to consist of two or more parts, intended to be occupied by different tenants usually lodging therein at night, each part is deemed the separate dwelling-house of a tenant occupying the same. If a building is so constructed as to consist of two or *more parts occupied by different tenants separately for any purpose,*

each part or apartment is considered a separate building within the meaning of this chapter.

3 R. S. 941, § 17.

§ 504. "**Building,**" defined. The term "building," as used in this chapter, includes a railway car, vessel, booth, tent, shop, or other erection or inclosure.

§ 505. **Unlawfully entering building.** A person who, under circumstances or in a manner not amounting to a burglary, enters a building, or any part thereof, with intent to commit a felony or a larceny, or any malicious mischief, is guilty of a misdemeanor.

§ 506. **Burglar punishable separately for crime in building.** A person who, having entered a building under such circumstances as to constitute burglary in any degree, commits any crime therein, is punishable therefor, as well as for the burglary; and may be prosecuted for each crime, separately, or in the same indictment.

§ 507. [*am'd 1892.*] **Burglary, how punished.** Burglary is punishable by imprisonment in a state prison as follows:

1. Burglary in the first degree, for not less than ten years.
2. Burglary in the second degree, for a term not exceeding ten years.
3. Burglary in the third degree, for a term not exceeding five years.

3 R. S. 941, § 22.

§ 508. **Possessing burglar's instruments, etc.** A person who makes or mends, or causes to be made or mended, or has in his possession in the day or night-time, any engine, machine, tool, false key, pick lock, bit, nippers or implements adapted, designed or commonly used for the commission of burglary, larceny or other crime, under circumstances evincing an intent to use or employ, or allow the same to be used or employed, in the commission of a crime, or knowing that the same are intended to be so used, shall be guilty of a misdemeanor, and if he has been previously convicted of any crime, he is guilty of a felony.

3 R. S. 955, ch. 374, § 1.

## CHAPTER III.

## FORGERY.

**SECTION 509.** Forgery in first degree defined.

510. Id. ; false certificate to certain instruments.

511. Id. ; in second degree.

512. Qualification of last section.

513. Other cases of forgery in second degree.

514. Id. ; of forgery in third degree.

515. Same.

516. Forging passage tickets.

517. Forging U. S. stamps.

518. Officer of corporation selling, etc., shares.

519. Falsely indicating person as corporate officer.

520. Terms "forge," and "forging," generally defined.

521. Uttering, etc., forged instruments, etc., is forgery.

522. Uttering writing signed with wrong-doer's name.

523. Forgery in first degree, how punished.

524. Id. ; in second degree.

525. Id. ; in third degree.

526. Having possession of counterfeit coin.

527. Advertising counterfeit money.

**§ 509. Forgery in first degree defined.** A person is guilty of forgery in the first degree who with intent to defraud, forges,

1. A will or codicil of real or personal property, or the attestation thereof, or a deed or other instrument, being or purporting to be the act of another, by which any right or interest in property is or purports to be transferred, conveyed, or in any way charged or affected ; or

2. A certificate of the acknowledgment or proof of a will, codicil, deed, or other instrument, which by law may be recorded or given in evidence when duly proved or acknowledged, made or purporting to have been made by a court or officer duly authorized to make such a certificate ; or

3. A certificate, bond, paper, writing, or other public security, issued or purporting to have been issued by or under the authority of this state, or of the United States, or of any other state or territory of the United States, or of any foreign government, country or state, or by any officer thereof in his official capacity, by which the payment of money is promised absolutely or upon any contingency, or the receipt of any money or property is acknowledged, or being or purporting to be evidence of any debt or liability, either absolute or contingent, issued or purporting to have been issued by lawful authority ; or

4. An indorsement or other instrument, transferring or purporting

to transfer the right or interest of any holder of such a certificate, obligation, public security, evidence of debt or liability, or of any person entitled to such right or interest ; or

5. A certificate of stock, bond or other writing, bank note, bill of exchange, draft, check, certificate of deposit, or other obligation or evidence of debt, issued or purporting to be issued by any bank, banking association or body corporate existing under the laws of this state, or of the United States, or of any other state, government, or country, declaring or purporting to declare any right, title or interest of any person in any portion of the capital stock, or property of such a body corporate, or promising or purporting to promise or agree to the payment of money, or the performance of any act, duty, or obligation ; or

6. An indorsement or other writing, transferring or purporting to transfer the right or interest of any holder of such a certificate, bond, or writing obligatory, or of any person entitled to such right or interest.

3 R. S. 942, §§ 23, 24.

**§ 510. Id. ; false certificate to certain instruments.** An officer authorized to take the proof or acknowledgment of an instrument which by law may be recorded, who willfully certifies, falsely that the execution of such an instrument was acknowledged by any party thereto, or that the execution of any such instrument was proved, is guilty of forgery in the first degree.

3 R. S. 943, § 28.

**§ 511. Id. ; in second degree.** A person is guilty of forgery in the second degree who, with intent to defraud,

1. Forges the great or privy seal of this state, the seal of any court of record, or of any public office or officer authorized by law or of any body corporate created by or existing under the laws of this state, or of the United States, or of any other state or any territory of the United States, or of any other state, government, or country, or any impression of such a seal ; or any gold or silver coin, which is the property of the United States, or of any foreign state, government or country ; or

2. Forges a record of a will, conveyance, or instrument of any kind, the record of which is by the law of this state made evidence of any judgment, order or decree of any court or officer, or a certified or authenticated copy thereof ; or

A judgment roll, judgment, order, or decree of any court or officer, or an enrollment thereof, or a certified or authenticated copy thereof, or any document or writing purporting to be such judgment, order, decree, enrollment, or copy ; or

An entry made in any book of record or accounts, kept by or in the office of any officer of this state, or of any village, city, town, or county of the state, by which any demand, claim, obligation, or interest, in favor of or against the people of the state, or any city, village, town or county, or any officer thereof, is or purports to be created, increased, diminished, discharged, or in any manner affected ; or an entry made in any book of records or accounts kept by a corporation doing business within the state, or in any account kept by such a corporation, whereby any pecuniary obligation, claim, or credit is or purports to be created, increased, diminished, discharged, or in any manner affected ; or

An instrument, document, or writing, being or purporting to be, a process or mandate issued by a competent court, magistrate, or officer of the state, or the return of an officer, court or tribunal, to such a process or mandate ; or a bond, recognizance, undertaking, pleading, or proceeding, filed or entered in any court of the state, or a certificate, order or allowance by a competent court, or officer, or a license or authority granted pursuant to any statute of the state or a certificate, document, instrument, or writing, made evidence by any law or statute ; or

An instrument or writing, being or purporting to be the act of another, by which a pecuniary demand or obligation is or purports to be or to have been created, increased, discharged, or diminished, or in any manner affected, or by which any rights or property whatever are or purport to be or to have been created, transferred, conveyed, discharged, increased, or diminished, or in any manner affected, the punishment for forging, altering, or counterfeiting which is not hereinbefore prescribed, by which false making, forging, altering, or counterfeiting, any person may be bound, affected or in any way injured in his person or property ; or

3. Makes or engraves a plate in the form or similitude of a promissory note, bill of exchange, bank note, draft, cheque, certificate of deposit, or other evidence of debt, issued by a banker, or by any banking corporation or association, incorporated or carrying on business under the laws of the state, or of the United States, or of any other state or territory of the United States, or of any foreign government, or country, without the authority of such banker, or banking corporation or association ; or

Without like authority, has in his possession or custody such a plate, with intent to use, or permit the same to be used, for the purpose of taking therefrom any impression to be uttered ; or

Without like authority, has in his possession or custody any impression taken from such a plate, with intent to have the same filled up and completed for the purpose of being uttered ; or

Makes or engraves, or causes to be made or engraved, upon any plate, any figures or words, with intent that the same may be used

for the purpose of falsely altering any evidence of debt hereinbefore mentioned.

3 R. S. 943, §§ 25-35

§ 512. **Qualification of last section.** A plate, specified in the last section, is in the form and similitude of the genuine instrument imitated, if the finished parts of the engraving thereupon resemble and conform to similar parts of the genuine instruments.

§ 513. **Other cases of forgery in second degree.** An instrument partly written and partly printed, or wholly printed with a written signature thereto, and any signature or writing purporting to be a signature of, or intended to bind an individual, a partnership, a corporation or association or an officer thereof, is a written instrument or a writing, within the provisions of this chapter.

3 R. S. 946, § 34.

§ 514. [*am'd 1892.*] **Id.; of forgery in third degree.** A person who either,

1. Being an officer or in the employment of a corporation, association, partnership or individuals falsifies, or unlawfully and corruptly alters, erases, obliterates or destroys any accounts, books of accounts, records, or other writing, belonging to or appertaining to the business of the corporation, association or partnership or individuals; or

2. Who, with intent to injure or defraud, shall falsely make, alter, forge or counterfeit, or shall cause, aid, abet, assist or otherwise connive at, or be a party to the making, altering, forging or counterfeiting of any letter, telegram, or other written communication, paper,—or instrument by which making, altering, forging or counterfeiting, any other person shall be in any manner injured in his good name, standing, position or general reputation; or

3. Who shall alter, or who shall cause, aid, abet, or otherwise connive at, or be a party to the uttering of any letter, telegram, report or other written communication, paper or instrument purporting to have been written or signed by another person, or any paper purporting to be a copy of any such paper or writing where no original existed, which said letter, telegram, report or other written communication, paper or instrument, or paper purporting to be a copy thereof, as aforesaid, the person uttering the same shall know to be false, forged or counterfeited, and by the uttering of which the sentiments, opinions, conduct, character, prospects, interests or rights of such other person shall be misrepresented or otherwise injuriously affected; or,

4. With intent to defraud, shall forge, counterfeit or falsely alter and wrongfully utter any ticket, contract or other paper, or writing entitling, or purporting to entitle, the person whose name appears therein, or the holder or bearer thereof, to entrance upon the grounds or premises of any membership corporation, or being thereupon, to remain upon such grounds or premises; or, with like intent, shall use any such ticket, contract or other paper or writing, to effect an entrance or as evidence of his right to remain upon such grounds or premises; or, with like intent, shall sell, exchange or deliver, or keep or offer for sale, exchange or delivery, or receive upon any purchase, exchange or delivery, any such ticket, contract or other paper or writing, knowing the same to have been forged, counterfeited or falsely altered,—

Is guilty of forgery in the third degree.



**§ 515. Id.** A person who, with intent to defraud or to conceal any larceny or misappropriation by any person of any money or property, either

1. Alters, erases, obliterates, or destroys an account, book of accounts, record, or writing, belonging to, or appertaining to the business of, a corporation, association, public office or officer, partnership, or individual; or

2. Makes a false entry in any such account or book of accounts; or

3. Willfully omits to make true entry of any material particular in any such account or book of accounts, made, written, or kept by him or under his direction;

Is guilty of forgery in the third degree.

3 R. S. 944, § 35.

**§ 516. Forging passage tickets.** A person who, with intent to defraud, forges, counterfeits, or falsely alters any ticket, check or other paper or writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railway or in any vessel or other public conveyance; and a person who, with like intent, sells, exchanges or delivers, or keeps or offers for sale, exchange or delivery, or receives upon any purchase, exchange or delivery, any such ticket, knowing the same to have been forged, counterfeited or falsely altered, is guilty of forgery in the third degree.

3 R. S. 954, §§ 93, 94.

**§ 517. Forging U. S. stamps.** A person who forges, counterfeits or alters any postage or revenue stamp of the United States, or who sells, or offers, or keeps for sale, as genuine or as forged, any such stamp, knowing it to be forged, counterfeited or falsely altered, is guilty of forgery in the third degree.

**§ 518. Officer of corporation selling, etc., shares.** An officer, agent or other person employed by any company or corporation existing under the laws of this state, or of any other state or territory of the United States, or of any foreign government, who willfully and with a design to defraud, sells, pledges or issues, or causes to be sold, pledged or issued, or signs or procures to be signed with intent to sell, pledge or issue, or to be sold, pledged or issued, a false, forged or fraudulent paper, writing or instrument, being or purporting to be a scrip, certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such company or corporation, or a bond or other evidence of debt of such company or corporation, or a certificate or other evidence of the ownership or of the transfer of any such bond or other evidence of debt, is guilty of forgery in the third degree, and upon conviction, in addition to the punishment prescribed in this title for that offense, may also be sentenced to pay a fine not exceeding three thousand dollars.

3 R. S. 946, §§ 4, 50.

**§ 519. Falsely indicating person as corporate officer.** The false making or forging of an instrument or writing, purporting to have been issued by or in behalf of a corporation or association, state or government, and bearing the pretended signature of any person, therein falsely indicated as an agent or officer of such corporation, is forgery in the same degree, as if that person were in truth such officer or agent of the corporation or association, state or government.

**§ 520. Terms "forge" and "forging."** The expressions "forge," "forged" and "forging," as used in this chapter, include false making, counterfeiting and the alteration, erasure, or obliteration of a genuine instrument, in whole or in part, the false making or counterfeiting of the signature, of a party or witness, and the placing or connecting together with intent to defraud different parts of several genuine instruments.

**§ 521. Uttering, etc., forged instruments, etc., is forgery.** A person who, knowing the same to be forged or altered, and with intent to defraud, utters, offers, disposes of or puts off as true, or has in his possession, with intent so to utter, offer, dispose of, or put off, either

1. A forged seal or plate, or any impression of either ; or
2. A forged coin ; or
3. A forged will, deed, certificate, indorsement, record, instrument or writing, or other thing, the false making, forging, or altering of which is punishable as forgery ;

Is guilty of forgery in the same degree as if he had forged the same.

**§ 522. Uttering writing signed with wrong-doer's name.** Whenever the false making or uttering of any instrument or writing is forgery in any degree, a person is guilty of forgery in the same degree, who, with intent to defraud, offers, disposes of, or puts off such an instrument or writing subscribed or indorsed in his own name, or that of any other person, whether such signature be genuine or fictitious, under the pretense that such subscription or indorsement is the act of another person of the same name, or of a person not in existence.

**§ 523. [am'd 1892.] Forgery in first degree, how punished.** Forgery in the first degree is punishable by imprisonment for a term not exceeding twenty years.

**§ 524. [am'd 1892.] Id.; second degree.** Forgery in the second degree is punishable by imprisonment for a term not exceeding ten years.

**§ 525. Id.; in third degree.** Forgery in the third degree is punishable by imprisonment for not more than five years.

§ 526. **Having possession of counterfeit coin.** A person who has in his possession a counterfeit of any gold or silver coin, whether of the United States or of any foreign country or government, knowing the same to be counterfeited, with intent to sell, utter, use, circulate or export the same, as true or as false, or to cause the same to be so uttered or passed, is punishable by imprisonment not more than five years, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

§ 527. [*am'd 1887.*] **Advertising counterfeit money.** A person who prints, writes, utters, publishes, sells, lends, gives away, circulates or distributes any letter, writing, circular, paper, pamphlet, hand bill or any other written or printed matter, advertising, offering or purporting to advertise or offer for sale, loan, exchange, gift, or distribution, or to furnish, procure or distribute any counterfeit coin, paper money, internal revenue stamp, postage stamp or any other token of value, or what purports to be counterfeit coin, paper money, internal revenue stamp, postage stamp or any other token of value, or giving, or purporting to give, either directly or indirectly, information where, how, of whom or by what means any counterfeit coin, paper money, internal revenue stamp, postage stamp, or token of value, can be procured or had, or what purports to be counterfeit coin, paper money, internal revenue stamp, postage stamp or other token of value, can be procured or had, or whoever shall aid, assist or abet in any manner, in any scheme or device whatsoever, offering or purporting to offer, for sale, loan, gift, exchange or distribution, any counterfeit coin, paper money, internal revenue stamp, postage stamp or other token of value, whether called "green articles," "queer coin," "paper goods," "bills," "spurious treasury notes," "United States goods," "green paper goods," "business that is not legitimate," "cigars," "green cigars," or by any other name or title, or any other device of a similar character, shall be guilty of a felony and on conviction shall be punished by imprisonment for not less than one year nor more than five years, and by a fine of not less than \$100 nor more than \$1,000 for each offense.

§ 2. Whoever in and for executing, operating, promoting, carrying on, or in the aiding, assisting or abetting in the promoting, operating, carrying on, or executing of any scheme or device whatsoever to defraud, by use or means of any papers, writings, letters, circulars or written or printed matters concerning the offering for sale, loan, gift, distribution, or exchange, of counterfeit coin, paper money, internal revenue stamps, postage stamps or other token of value as provided in section one of this act, shall use any fictitious, false or assumed name or address, or name or address other than his own right, proper and lawful name; or whoever in the executing, operating, promoting, carrying on, aiding, assisting or abetting in the execution, promotion or carrying on of any scheme or device offering for sale, loan, gift, or

tribution, or purporting to offer for sale, loan, gift or distribution or giving or purporting to give information, directly or indirectly, re, how, of whom, or by what means, any counterfeit coin, paper money, internal revenue stamp, postage stamp, or other token of value, be obtained or had, or who shall knowingly receive or take from the mails of the United States any letter or package addressed to any fictitious, false or assumed name or address or name other than his own right, proper or lawful name shall be guilty of a felony, and on conviction shall be punished by imprisonment for not less than one year, nor more than five years, and by a fine of not less than one hundred dollars nor more than two thousand dollars.

#### CHAPTER IV.

#### LARCENY, INCLUDING EMBEZZLEMENT, OBTAINING PROPERTY BY FALSE

##### PRETENSES, AND FELONIOUS BREACH OF TRUST.

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| 107 | 535. Keeping wrecked goods.       |         | 550. Knowingly receiving.     |
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§ 528. Larceny defined. A person who, with the intent to take or defraud the true owner of his property, or of the use and benefit thereof, or to appropriate the same to the use of the taker, or any other person, either

Takes from the possession of the true owner, or of any other person; or obtains from such possession by color or aid of fraudulent false representation or pretense, or of any false token or writing; secretes, withholds, or appropriates to his own use, or that of any other person other than the true owner, any money, personal property, or goods in action, evidence of debt or contract, or article of value of any kind, or

Having in his possession custody, or control, as a bailee, agent, attorney, agent, clerk, trustee, or officer of any person, partnership or corporation, or as a public officer, or as a person authorized by agreement, or by competent authority, to hold or take such possession, custody, or control, any money, property, evidence of debt or contract, article of value of any nature, or thing in action or in possession, appropriates the same to his own use, or that of any other person other than the true owner or person entitled to the benefit thereof;

Steals such property, and is guilty of larceny

§ 529. Obtaining money or property by fraudulent draft. A person who willfully, with intent to defraud, by color or aid of a check or draft, or order for the payment of money or the delivery of property, when such person knows that the drawer or maker thereof is not entitled to draw on the drawee for the sum specified therein, or order for the payment of the amount, or delivery of the property,

although no express representation is made in reference thereto, obtains from another any money or property, is guilty of stealing the same and punishable accordingly.

**§ 530. Grand larceny in first degree.** A person is guilty of grand larceny in the first degree, who steals or unlawfully obtains or appropriates, in any manner specified in this chapter,

1. Property of any value, by taking the same from the person of another in the night time ; or

2. Property of the value of more than twenty-five dollars, by taking the same in the night time from any dwelling-house, vessel, or railway car ; or

3. Property of the value of more than five hundred dollars, in any manner whatever.

3 R. S. 953, § 80.

**§ 531. In second degree.** A person is guilty of grand larceny in the second degree who, under circumstances not amounting to grand larceny in the first degree, in any manner specified in this chapter, steals or unlawfully obtains or appropriates,

1. Property of the value of more than twenty-five dollars, but not exceeding five hundred dollars, in any manner whatever ; or

2. Property of any value, by taking the same from the person of another ; or

3. A record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law, with, or in keeping of any, public office or officer.

**§ 532. Petit larceny.** Every other larceny is petit larceny.

3 R. S. 969, § 1.

**§ 533. [am'd 1892.] Grand larceny in first degree, how punished.** Grand larceny in the first degree is punishable by imprisonment for a term not exceeding ten years.

**§ 534. [am'd 1892.] Id.; in second degree.** Grand larceny in the second degree is punishable by imprisonment for a term not exceeding five years.

**§ 535. Petit larceny a misdemeanor.** Petit larceny is a misdemeanor.

**§ 536. Completed unissued instruments property.** All the provisions of this chapter apply to cases where the property taken is an instrument for the payment of money, an evidence of debt, a public security, or a passage ticket, completed and ready to be issued or delivered, although the same has never been issued or delivered by the maker thereof to any person as a purchaser or owner.

**§ 537. Severance of fixture, etc., larceny.** All the provisions of this chapter apply to cases where the thing taken is a fixture or part of the realty, or any growing tree, plant, or produce, and is severed at the time of the taking, in the same manner as if the thing had been severed by another person at a previous time.

3 R. S. 971, § 15.

**§ 538. Keeping wrecked goods a misdemeanor.** A person, who takes away goods or other property not his own from a stranded vessel, or any goods or other property cast by the sea upon the land or found in a bay or creek, or who knowingly becomes possessed of any such goods or other property, and does not deliver the same, within forty-eight hours thereafter, to the sheriff or one of the coroners or wreck masters of the county where the same was found, is guilty of a misdemeanor.

**§ 539. Lost property.** A person, who finds lost property under circumstances which give him knowledge or means of inquiry as to the true owner, and who appropriates such property to his own use, or to the use of another person who is not entitled thereto, without having first made every reasonable effort to find the owner and restore the property to him, is guilty of larceny.

**§ 540. Bringing stolen goods into state, larceny.** A person, who having, at any place without the state, stolen the property of another, or received such property, knowing it to have been stolen, brings the same into this state, may be convicted and punished in the same manner as if such larceny, or receiving had been committed within the state. Complaint may be made and the indictment found and tried, and the offense may be charged to have been committed, in any county into or through which the stolen property is brought.

**§ 541. Conversion by trustee, larceny; how punished.** A person acting as executor, administrator, committee, guardian, receiver, collector or trustee of any description, appointed by a deed, will, or other instrument, or by an order or judgment of a court or officer, who secretes, withholds, or otherwise appropriates to his own use, or that of any person other than the true owner, or person entitled thereto, any money, goods, thing in action, security, evidence of debt or of property, or other valuable thing, or any proceeds thereof, in his possession or custody by virtue of his office, employment, or appointment, is guilty of grand or petit larceny in such degree as is herein prescribed, with reference to the amount of such property; and upon conviction, in addition to the punishment in this chapter prescribed for such larceny, may be adjudged to pay a fine, not exceeding the value of the property so misappropriated or stolen, with interest thereon from the time of the misappropriation, with-

holding, or concealment, and twenty per centum thereupon, in addition, and to be imprisoned for not more than five years in addition to the term of his sentence for larceny, according to this chapter, unless the fine is sooner paid.

**§ 542. Disposition of fine.** So much of the fine authorized in the last section to be imposed, as does not exceed the amount or value of the property taken, appropriated, or stolen, with interest thereupon from the time of the commission of the offense, and a reasonable sum to defray the expenses of collecting the same, to be fixed by the Supreme Court, must, when received or collected, be paid to the county treasurer of the county where the conviction was had, for the benefit of the person injured or defrauded, or whose property the offender took, misappropriated, or concealed, or his representative or assignee; and must be paid over to him by the county treasurer, upon the order of the Supreme Court, made after notice to the district attorney of the county.

**§ 543. Remission of fine.** In case of the payment of the value of the property stolen or taken, with interest, by the person convicted, or of the collection of the same by civil action, the court may, in its discretion, upon application by such person, and such notice to other persons interested, and to the district attorney of the county, as the court may direct, remit the fine imposed, pursuant to the last section, except the additional allowance for expenses.

**§ 544. Verbal false pretense not larceny.** A purchase of property by means of a false pretense is not criminal, where the false pretense relates to the purchaser's means or ability to pay, unless the pretense is made in writing and signed by the party to be charged.

**§ 545. Value of evidence of debt, how ascertained.** If the thing stolen consists of a written instrument, being an evidence of debt, other than a public or corporate certificate, scrip, bond or security having a market value, or being the transfer of or evidence of title to any property, or of the creating, releasing, or discharging, of any demand, right, or obligation, the amount of money due thereupon or secured to be paid thereby, and remaining unsatisfied, or which, in any contingency, might be collected thereupon or thereby, or the value of the property transferred or affected, or the title to which is shown thereby, or the sum which might be recovered for the want thereof, as the case may be, is deemed the value of the thing stolen.

§ 546. **Id.; passenger ticket.** If the thing stolen is a ticket, paper or other writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon a railway car, vessel, or other public conveyance, the price at which a ticket, entitling a person to a like passage, is usually sold, is deemed the value thereof.

3 R. S. 254, §§ 80, 91.

§ 547. **Id.; of other articles.** In every case not otherwise regulated by statute, the market value of the thing stolen is deemed its value.

§ 548. **Claim of title, ground of defense.** Upon an indictment for larceny it is a sufficient defense that the property was appropriated openly and avowedly, under a claim of title preferred in good faith, even though such claim is untenable. But this section shall not excuse the retention of the property of another, to offset or pay demands held against him.

§ 549. **Intent to restore property.** The fact that the defendant intended to restore the property stolen or embezzled, is no ground of defense, or of mitigation of punishment, if it has not been restored before complaint to a magistrate, charging the commission of the crime.

§ 550. **Knowingly receiving.** A person, who buys or receives any stolen property, or any property which has been wrongfully appropriated in such a manner as to constitute larceny according to this chapter, knowing the same to have been stolen or so dealt with, or who corruptly, for any money, property, reward or promise or agreement for the same, conceals, withholds, or aids in concealing or withholding, any property, knowing the same to have been stolen, or appropriated wrongfully in such a manner as to constitute larceny under the provisions of this chapter, if such misappropriation had been committed within the state, whether such property were so stolen or misappropriated within or without the state, is guilty of criminally receiving such property, and is punishable, by imprisonment in a state prison for not more than five years, or in a county jail for not more than six months, or by a fine of not more than two hundred and fifty dollars, or by both such fine and imprisonment.

3 R. S. 254, § 88.

§ 551. **Averment and proof.** It is not necessary to aver, in an indictment for an offense specified in the last section, nor to prove upon the trial thereof, that the principal who stole the property has been convicted, or is amenable to justice.

3 R. S. 254, § 89.



## CHAPTER V.

## EXTORTION AND OPPRESSION.

## SECTION 552. "Extortion" defined.

553. What threats may constitute extortion.

554. Punishment of extortion in certain cases.

555. Compulsion to execute instrument.

556. Oppression and extortion committed under color of official right.

557. Same.

558. Blackmail.

559. Written threat.

560. Attempts to extort money, or property, by verbal threats.

561. Unlawful threat referring to act of third person.

§ 552. "Extortion" defined. Extortion is the obtaining of property from another, with his consent, induced by a wrongful use of force or fear, or under color of official right.

§ 553. What threats may constitute extortion. Fear, such as will constitute extortion, may be induced by a threat :

1. To do an unlawful injury to the person or property of the individual threatened, or to any relative of his or to any member of his family ; or

2. To accuse him, or any relative of his or any member of his family, of any crime ; or

3. To expose, or impute to him, or any of them, any deformity or disgrace ; or

4. To expose any secret affecting him or any of them.

§ 554. Punishment of extortion in certain cases. A person who extorts any money or other property from another, under circumstances not amounting to robbery, by means of force or a threat mentioned in the last two sections, is punishable by imprisonment not exceeding five years.

§ 555. Compulsion to execute instrument. The compelling or inducing of another, by such force or threat, to make, subscribe, seal, execute, alter, or destroy any valuable security, or instrument or writing, affecting or intended to affect any cause of action or defense, or any property, is an extortion of property, within the last two sections.

§ 556. Extortion committed under color of official right. A public officer, or a person pretending to be such, who, unlawfully and maliciously, under pretense or color of official authority.

1. Arrests another, or detains him against his will ; or
2. Seizes or levies upon another's property ; or
3. Dispossesses another of any lands or tenements ; or
4. Does any other act, whereby another person is injured in his person, property, or rights ;

Commits oppression and is guilty of a misdemeanor.

3 R. S. 971, § 11.

§ 557. **Same.** A public officer who asks, or receives, or agrees to receive, a fee or other compensation for his official service, either

1. In excess of the fee or compensation allowed to him by statute therefor ; or
2. Where no fee or compensation is allowed to him by statute therefor ;

Commits extortion and is guilty of a misdemeanor.

3 R. S. 923, §§ 5, 6.

§ 558. **Blackmail.** A person who, knowing the contents thereof, and with intent, by means thereof, to extort or gain any money or other property, or to do, abet, or procure any illegal or wrongful act, sends, delivers, or in any manner causes to be forwarded or received, or makes and parts with for the purpose that there may be sent or delivered, any letter or writing, threatening

1. To accuse any person of a crime ; or
2. To do any injury to any person or to any property ; or.
3. To publish or connive at publishing any libel ; or
4. To expose or impute to any person any deformity or disgrace ;

Is punishable by imprisonment for not more than five years.

3 R. S. 951, § 72.

§ 559. [*am'd 1891.*] **Relative to the sending of threatening letters.** A person who, knowing the contents thereof, sends, delivers or in any manner causes to be sent or received, any letter or other writing threatening to do any unlawful injury to the person or property of another, or any person who shall knowingly send or deliver, or shall make, and, for the purpose of being delivered or sent, shall part with the possession of, any letter, postal card, or writing, with or without a name subscribed thereto, or signed with a fictitious name or with any letter, mark, or other designation, with intent thereby to cause annoyance to any person, is guilty of misdemeanor.

§ 560. **Attempts to extort money, or property, by verbal threats.** A person who, under circumstances not amounting to robbery, or an attempt at robbery, with intent to extort or gain any money or other property, verbally makes such a threat as would be criminal under either of the foregoing sections of this chapter if made or communicated in writing, is guilty of a misdemeanor.

3 R. S. 969, § 2.

§ 561. **Unlawful threat referring to act of third person.** It is immaterial whether a threat, made as specified in this chapter, is of things to be done or omitted by the offender, or by any other person.

## CHAPTER VI.

## FALSE PERSONATION AND CHEATS.

- SECTION 562.** Falsely personating another.  
 563. Limitations as to indictments.  
 564. Receiving property in false character.  
 565. Personating officers, firemen, and other persons.  
 566. Obtaining property by false pretenses.  
 567. Obtaining property for charitable purposes.  
 568. Obtaining negotiable evidence of debt by false pretenses.  
 569. Using false check or order for payment of money.  
 570. Obtaining employment, etc.  
 571. Secreting personal property  
 572. Pawning, etc., borrowed property.  
 573. Personating beneficiary of entrance ticket.  
 574. Mock auctions.

**§ 562. Falsely personating another.** A person who falsely personates another, and, in such assumed character,

1. Marries or pretends to marry, or to sustain the marriage relation towards another, with or without the connivance of the latter ; or

2. Becomes bail or surety for a party in an action or special proceeding, civil or criminal, before a court or officer authorized to take such bail or surety ; or

3. Confesses a judgment ; or

4. Subscribes, verifies, publishes, acknowledges, or proves a written instrument, which by law may be recorded, with intent that the same may be delivered or used as true ; or

5. Does any other act, in the course of any action or proceeding, whereby, if it were done by the person falsely personated, such person might in any event become liable to an action or special proceeding, civil or criminal, or to pay a sum of money, or to incur a charge, forfeiture, or penalty, or whereby any benefit might accrue to the offender, or to another person ;

Is punishable by imprisonment in a state prison for not more than ten years.

3 R. S. 948, § 53.

**§ 563. Limitations as to indictments.** An indictment cannot be found, for the crime specified in subdivision first of the last section except upon the complaint of the person injured, if there be any such person living, and within two years after the perpetration of the crime.

**§ 564. Receiving property in false character.** A person, who falsely personates another, and in such assumed character receives any money or property, knowing that it is intended to be delivered to the individual so personated, with intent to convert the same to his own use, or to that of another person who is not entitled thereto, is punishable in the same manner and to the same extent, as for larceny of the money or property so received.

**§ 565. Personating officers, firemen, and other persons.** A person who falsely personates a public officer, civil or military, or a policeman, or a private individual having special authority by law to perform an act affecting the rights or interests of another, or who assumes, without authority, any uniform or badge by which such an officer or person is lawfully distinguished, and in such assumed character does an act, purporting to be official, whereby another is injured or defrauded, is guilty of a misdemeanor.

**§ 566. Obtaining property by false pretenses.** A person who, with intent to cheat or defraud another, designedly, by color or aid of a false token or writing, or other false pretense, obtains the signature of any person to a written instrument, is punishable by imprisonment in a state prison for not more than three years, or in a county jail for not more than one year, or by a fine of not more than three times the value of the money or property affected or obtained thereby, or by both such fine and imprisonment.

**§ 566A. [added 1887.] False pedigree of animals, etc.** Every person who by any false pretense shall obtain from any club, association, society or company for improving the breed of cattle, horses, sheep, swine or other domestic animals the registration of any animal in the herd register or other register of any such club, association, society or company or a transfer of any such registration, and every person who shall knowingly give a false pedigree of any animal, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in a county jail for a term not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

**§ 567. Obtaining property for charitable purposes.** A person, who willfully, by color or aid of any false token or writing, or other false pretense, obtains the signature of any person to any written instrument, or any money or property, for any alleged or pretended charitable or benevolent purpose, is punishable by imprisonment for not less than one nor more than three years, or by a fine to an amount not exceeding the value of the money or property obtained, or by both.

**§ 568. Obtaining negotiable evidence of debt by false pretenses** If the false token, by which money or property is obtained in violation of sections 566 and 567, is a promissory note or other negotiable evidence of debt purporting to be issued by or under the authority of any banking company or corporation not in existence, the person

guilty of such cheat is punishable by imprisonment in a state prison not exceeding seven years, instead of by the punishments prescribed by those sections.

**§ 569. Using false check or order for payment of money.** The use of a matured cheque, or other order for the payment of money, as a means of obtaining a signature, or money or property, such as is specified in sections 566 and 567, by a person who knows that the drawer thereof is not entitled to draw for the sum specified therein, upon the drawee, is the use of a false token within the meaning of those sections, although no representation is made in respect thereto.

**§ 570. Obtaining employment, etc.** A person who obtains employment or appointment to any office or place of trust by color or aid of any false or forged letter or certificate of recommendation, or of any false statement in writing, as to his name, residence, previous employment or qualification; or any person who shall willfully and intentionally fraudulently represent himself, or herself, to be a deaf and dumb person, in order to collect, receive or otherwise obtain moneys, food, clothing or anything of value whatsoever, is guilty of a misdemeanor.

**§ 571. Secreting personal property.** A person, who, having theretofore executed a mortgage of personal property, or any instrument intended to operate as such, sells, assigns, exchanges, secretes, or otherwise disposes of any part of the property, upon which the mortgage or other instrument is at the time a lien, with intent thereby to defraud the mortgagee or a purchaser thereof, is guilty of a misdemeanor.

3 R. S. 978, § 73.

**§ 572. [am'd 1892.] Pawning, etc.; borrowing property.** A person who without the consent of the owner thereof, sells, pledges, pawns, or otherwise disposes of any property which he has borrowed or hired from the owner, is guilty of a misdemeanor; but this section does not apply to a person leasing or lending property, for a time not exceeding that for which the same was leased or lent to himself.

**§ 573. [am'd 1892.] Personating beneficiary of entrance ticket.** A person who, with intent to wrongfully convert to his own use the benefits secured by any ticket, contract, or other paper or writing, appearing upon its face not negotiable, and which entitles, or purports to entitle the person whose name appears therein, to entrance upon the grounds or premises of a membership corporation, or being thereupon, to remain upon such grounds or premises, falsely personates or attempts to so personate any individual named in such

ticket, contract or other paper or writing, as the grantee or beneficiary thereof, is guilty of a misdemeanor.

§ 574. **Mock auctions.** A person, who obtains money or property from another, or obtains the signature of another to any writing, the false making of which would be forgery, by means of any false or fraudulent sale of property or pretended property by auction, or by any of the practices known as mock auctions, is punishable by imprisonment in a state prison not exceeding three years, or in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment; and in addition thereto he forfeits any license he may hold to act as an auctioneer, and is forever disqualified from receiving a license to act as auctioneer within this state.

R. S. 239, §§ 61, 62.

## CHAPTER VII.

### FRAUDULENTLY FITTING OUT AND DESTROYING VESSELS.

SECTION 575. Person willfully destroying vessel, etc.

576. Fitting out or lading any vessel, with intent to wreck the same.

577. Making false manifest, etc.

§ 575. **Person willfully destroying vessel, etc.** A person, who wrecks, burns, sinks, scuttles, or otherwise injures or destroys a vessel, or the cargo of a vessel, or willfully permits the same to be wrecked, burned, sunk, scuttled, or otherwise injured or destroyed, with intent to prejudice or defraud an insurer or any other person, is punishable by imprisonment for not more than five years.

2 R. S. 953, §§ 47, 48.

§ 576. [*am'd 1892.*] **Fitting out or lading any vessel, with intent to wreck the same.** A person who fits out any vessel, or who lades any cargo on board of a vessel, who with intent to permit or cause the same to be wrecked, sunk or otherwise injured or destroyed, and thereby to defraud or prejudice an insurer or another person, is punishable by imprisonment in the state prison not exceeding ten years.

§ 577. **Making false manifest, etc.** A person, guilty of preparing, making or subscribing, a false or fraudulent manifest, invoice, bill of lading, ship's register or protest, with intent to defraud another, is punishable by imprisonment in a state prison not exceeding three years, or by a fine not exceeding one thousand dollars, or both.

## CHAPTER VIII.

## MISCONDUCT AND FRAUDS IN RELATION TO INSURANCE CORPORATIONS, ASSOCIATIONS AND SOCIETIES.

- SECTION 577a. False statements in applications for membership.
- 577b. Discriminations and rebates by life insurance corporations prohibited.
- 577c. Acting as agent of life insurance corporation without certificate of authority.
- 577d. Fire insurance corporations to use standard policy only.
- 577e. Over-charges by marine insurance agents.
- 577f. Misconduct of officers and agents of corporations for the insurance of domestic animals.
- 577g. Transfers to and reinsurance of risks in unauthorized foreign corporations prohibited to co-operative associations.
- 577h. Misconduct of officers and agents of co-operative insurance companies.
- 577i. Acts of agents of fire or marine insurance corporation, organized in other countries, after revocation of certificate.
- 577j. Acting for foreign insurance corporation which has not designated superintendent of insurance as attorney.
578. Destroying property insured.
579. Presenting false proofs of loss in support of claim upon policy of insurance.

§ 577a. [*am'd 1893.*] **False statements in applications for membership.** Any applicant, officer, agent, solicitor, examining physician, surgeon or other person, who knowingly or willfully makes any false or fraudulent statements or representations in or with reference to any application for membership or reinstatement or any other documentary or other proof for the purpose of obtaining or reinstating membership in or benefit from any fraternal beneficiary society, order or association, any corporation, association or society transacting the business of life or casualty insurance or both, upon the co-operative or assessment plan, or a corporation for the insurance of domestic animals, is guilty of a misdemeanor.

§ 577b. [*added 1892.*] **Discriminations and rebates by life insurance corporations prohibited.** Any life insurance corporation doing business in this state, or any officer or agent thereof, who,

1. Makes any discrimination in favor of individuals of the same class or of the same expectation of life either in the amount of the premium charged or in any return of premiums, dividends or other advantages, or

2. Makes any contract for insurance or agreement as to such contract other than that which is plainly expressed in the policy issued,  
or

3. Pays or allows, or offers to pay or allow as an inducement to any person to insure, any rebate or premium, or any special favor or advantage whatever, in the dividends to accrue thereon or any inducement whatever not specified in the policy, or

4. Makes any distinction or discrimination between white persons and colored persons, wholly or partially of African descent, as to the premiums or rates charged for policies upon the lives of such persons, or in any other manner whatever; or demands or requires a greater premium from such colored persons than is at that time required by such company from white persons of the same age, sex, general condition of health and prospect of longevity; or makes or requires any rebate, diminution or discount upon the amount to be paid on such policy in case of the death of such colored persons insured, or inserts in the policy any condition, or makes any stipulation whereby such person insured shall bind himself, or his heirs, executors, administrators and assigns to accept any sum less than the full value or amount of such policy in case of a claim accruing thereon by reason of the death of such person insured, other than such as are imposed upon white persons in similar cases,

Is guilty of a misdemeanor.

§ 577c. [added 1892.] **Acting as agent of life insurance corporation without certificate of authority.** Any person acting as agent, subagent or broker of a life insurance corporation doing business in this state, except as agent operating solely on the weekly payment plan of insurance, who solicits or procures applications for insurance without first procuring a certificate of authority from the superintendent of insurance, is guilty of a misdemeanor.

§ 577d. [added 1892.] **Fire insurance corporations to use standard policy only.** Any fire insurance corporation, or any officer or agent thereof, who makes, issues, delivers, or offers to deliver any policy of insurance on property in this state, which does not conform in all particulars as to blanks, size of type, context, provisions, agreements and conditions with the printed form or contract of policy filed in the office of the secretary of state, known and designated as the "Standard fire insurance policy of the state of New York," except as to such exceptions as are specially provided and allowed by law, is guilty of a misdemeanor, punishable by a fine of not less than twenty-five nor more than one hundred dollars for the first offense, and of not less than one hundred or more than two hundred and fifty dollars for each subsequent offense.

§ 577e. [added 1892.] **Over-charges by marine insurance agents.** Any agent, shipper or other person, representing or



acting for a marine insurance corporation doing business in this state; who,

1. Charges or receives, directly or indirectly from any person for insurance of any property in transit upon the canals of the state, any greater sum than the regular rates of premium fixed by the corporation for the insurance of such property; or,

2. Demands or receives upon any policy of insurance issued upon any such property, for the business of obtaining such insurance, a sum of money, as compensation or remuneration by way of salary, commission or in any other capacity, which includes in any case over fifteen per centum of the premium.

Is guilty of a misdemeanor.

§ 577i. [added 1892.] **Misconduct of officers and agents of corporations for the insurance of domestic animals.** Any officer or agent of a corporation organized for the insurance of domestic animals who,

1. Refuses to make any report or perform any duty required by law; or,

2. Intentionally makes any false or fraudulent statement or report,

Is guilty of a misdemeanor punishable by a fine of not less than one hundred or more than five hundred dollars.

§ 577g. [added 1892.] **Transfers to and reinsurance of risks in unauthorized foreign corporations prohibited to co-operative associations.** Any officer, manager, director or agent of a casualty insurance corporation upon the co-operative or assessment plan, organized under the laws of this state, who transfers its risks or assets or any part thereof to or reinsures its risks or any part thereof in any insurance corporation or association of another state or country which is not at the time of such transfer or reinsurance authorized by law to do insurance business in this state, is guilty of a misdemeanor.

§ 577h. [added 1892.] **Misconduct of officers and agents of co-operative insurance companies.** Any officer, agent or representative of a corporation, association or society doing a life or casualty insurance business or both, upon the co-operative or assessment plan, who,

1. Neglects or refuses to perform any duty required of him by law; or,

2. Intentionally makes any false or fraudulent statement or report; or,

3. Refuses to permit the superintendent of insurance or any examiner duly authorized by him for the purpose, to make an exami

nation of the condition and business, books, papers and vouchers of any such corporation, association or society; or,

4. Thirty days after any such corporation has been notified by the superintendent of insurance to designate some person residing in the same city, village or town where the principal business office within the state of such corporation is located, as a person upon whom service of legal process and papers may be made, as provided by law, collects any money or issues any certificate in carrying on such business, during the failure of such corporation to designate such person; or,

5. Being within this state the agent or representative of any such corporation, association or society, which has neglected or refused to comply with any duty imposed upon it by law, or which has failed or neglected to procure from the superintendent of insurance the certificate of authority to transact business within this state as provided by law, acts as such agent, during such period of default,

Is guilty of a misdemeanor.

**§ 577i. [added 1892.] Acts of agents of fire or marine insurance corporation, organized in other countries, after revocation of certificate.** Any agent of a fire or marine insurance corporation, incorporated by or existing under the government or laws of another country than the United States, and doing business in this state, who issues any new policy of insurance after having been notified by the superintendent of insurance that the certificate of such corporation to do business within this state has been revoked, is guilty of a misdemeanor.

**§ 577j. [added 1892.] Acting for foreign insurance corporation which has not designated superintendent of insurance as attorney.** Any person acting for himself or for others not having been specially licensed, as provided by law, by the superintendent of insurance, who solicits or procures, or aids in the solicitation or procurement of policies or certificates of insurance from, or adjusts losses or in any manner aids the transaction of any business for, any foreign insurance corporation, which has not executed and filed in the office of the superintendent of insurance a written appointment of the superintendent to be the true and lawful attorney of such corporation in and for this state, upon whom all lawful process in any action or proceeding against the corporation may be served, is guilty of a misdemeanor.

**§ 578. Destroying property insured.** A person who, with intent to defraud or prejudice the insurer thereof, willfully burns, or

in any manner injures or destroys property not included or described in section 575, which is insured at the time against loss or damage by fire or by any other casualty, under such circumstances that the offense is not arson in any of its degrees, is punishable by imprisonment for not more than five years, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

**§ 579. Presenting false proofs of loss in support of claim upon policy of insurance.** A person who, knowing it to be such, either

1. Presents, or causes to be presented, a false or fraudulent claim, or any proof in support of such a claim, for the payment of a loss upon a contract of insurance ; or

2. Prepares, makes or subscribes a false or fraudulent account, certificate, affidavit or proof of loss, or other document or writing, with intent that the same may be presented or used in support of such a claim,

Is punishable by imprisonment for not more than five years, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

## CHAPTER IX.

### FALSE WEIGHTS AND MEASURES.

**SECTION 580.** Using false weights, measures, etc.

581. Keeping false weights.

582. False weights and measures authorized to be seized.

583. May be tested by committing magistrate, and destroyed or delivered to district attorney.

584. Shall be destroyed after conviction of offender.

585. Stamping false weight or tare, on casks or packages.

585a. Regulations for sale of baled hay and straw.

**§ 580. Using false weights, measures, etc.** A person who injures or defrauds another by using, with knowledge that the same is false, a false weight, measure, or other apparatus, for determining the quantity of any commodity, or article of merchandise, or by knowingly delivering less than the quantity he represents, is guilty of a misdemeanor.

2 R. S. 803, § 32.

**§ 581. Keeping false weights.** A person who retains in his possession any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it, or permit it to be used in violation of the last section, is guilty of a misdemeanor.

**§ 582. False weights and measures authorized to be seized.** A person who is authorized or enjoined by law to arrest another per-

son for a violation of the last two sections, is equally authorized and enjoined to seize any false weights or measures found in the possession of the person so arrested, and to deliver the same to the magistrate before whom the person so arrested is required to be taken.

**§ 583. May be tested by committing magistrate, and destroyed or delivered to district attorney.** The magistrate to whom any weight or measure is delivered pursuant to the last section, must, upon the examination of the defendant, or if the examination is delayed or prevented, without awaiting such examination, cause the same to be tested by comparison with standards conformable to law; and if he finds it to be false, he must cause it to be destroyed, or to be delivered to the district attorney of the county in which the defendant is liable to indictment or trial, as the interests of justice in his judgment require.

**§ 584. Shall be destroyed after conviction of offender.** Upon the conviction of the defendant, the district attorney must cause any weight or measure in respect whereof the defendant stands convicted, and which remains in the possession or under the control of the district attorney, to be destroyed.

**§ 585. Stamping false weight or tare, on casks or packages.** A person who knowingly marks or stamps false or short weights, or false tare on any cask or package, or knowingly sells or offers for sale any cask or package so marked, is guilty of a misdemeanor.

**§ 585a. [added 1893.] Violations of regulations for sale or baled hay and straw.** A person who :

1. Sells or offers for sale baled hay or straw containing more than twenty pounds of wood to the bale, the weight of which is two hundred pounds or upward, or more than ten pounds of wood to the bale, the weight of which is less than two hundred pounds ; or
2. Sells or offers for sale any bale of hay or straw upon which the correct gross weight is not plainly marked, or which weighs more than five pounds less than the gross weight so marked thereupon, is guilty of a misdemeanor.

## CHAPTER X.

### FRAUDULENT INSOLVENCIES BY INDIVIDUALS.

**SECTION 586.** Fraudulent conveyance.

587. Fraudulent removal of property to prevent levy.

588. Knowingly receiving property.

589. Concealment of effects of insolvent debtor.

**§ 586. Fraudulent conveyances.** A person who either

1. Becomes a party to a conveyance or assignment of real or personal property, or of an interest therein, with intent to defraud prior or subsequent purchasers, or to hinder, delay, or defraud creditors or other persons ; or

2. Being a party or privy to, or knowing of, such a conveyance or assignment so made, willfully puts the same in use as having been made in good faith;

Is guilty of a misdemeanor.

§ 587. [*am'd 1893.*] **Fraudulent removal of property to prevent levy.** A person who, with intent to defraud a creditor, or to prevent any of his property from being made liable for the payment of any of his debts, or levied upon by an execution, or warrant of attachment, removes any of his property, or secretes, assigns, conveys, or otherwise disposes of the same; or with intent to defraud a creditor, removes, secretes, assigns, conveys, or otherwise disposes of any of his books of account, accounts, vouchers or writings in any way relating to his business affairs, or destroys, obliterates, alters or erases any of such books of account, accounts, vouchers or writings, or any entry, memorandum or minute therein contained, is guilty of a misdemeanor.

§ 588. **Knowingly receiving property.** A person who receives any property from another knowing that the same is transferred or delivered to him in violation of, or with intent to violate, the last section, is guilty of a misdemeanor.

§ 589. **Concealment of effects of insolvent debtor.** A person who being an applicant, as an insolvent debtor, for a discharge from his debts, or for exoneration or discharge from imprisonment, or having made a general assignment of his property for the payment of his debts, willfully either

1. Conceals any part of his estate or effects, or any book, account, or other writing relative thereto ; or

2. Omits to disclose, to the court before which his application is pending, any debt or demand which he has collected, or any transfer of property which he has made, since the presentation of his application ; or

3. Fraudulently presents, or authorizes to be presented in his behalf, such an application, in a case where it is not authorized by law ; or

4. Makes or presents to the court or officer in support of such an application, a petition, schedule, book, account, voucher, or other paper or document, knowing the same to contain a false statement ; or

5. Fraudulently makes and exhibits, or alters, obliterates, or destroys an account or voucher, relating to the condition of his affairs, or an entry or statement in such an account or voucher ; or

6. Commits any fraud upon a creditor, to induce him to petition for, or consent to such a discharge ; or

7. Conspires with, or induces another fraudulently to consent as creditor to a petition for such discharge, or to practice any fraud in aid thereof ;

Is guilty of a misdemeanor.

## CHAPTER XI.

FRAUDULENT INSOLVENCIES BY CORPORATIONS AND OTHER FRAUDS  
IN THEIR MANAGEMENT.

- SECTION 590.** Frauds in the organization of corporations.
- 591. Fraudulent issue of stock, scrip, etc.
  - 592. Frauds in procuring organization of corporation, or increase of capital.
  - 593. Acting for foreign corporations not authorized to do business in this state.
  - 594. Misconduct of directors of stock corporations.
  - 595. Misconduct of directors of banking corporations.
  - 596. Loans made in violation of last section, not invalid.
  - 597. Sale or hypothecation of bank notes by officer, etc.
  - 598. Officer of bank putting excessive number of its notes in circulation.
  - 599. Officer or agent of banking corporation making guarantee or indorsement, in its behalf, in certain cases.
  - 600. Bank officer overdrawing his account.
  - 601. Receiving deposits in insolvent bank.
  - 602. Unlawful investments by officers of savings banks.
  - 602a. Frauds in preparing accounts.
  - 603. Misconduct by directors of moneyed corporations
  - 604. Misconduct by banks and bankers.
  - 605. Unlawful discount of bills of foreign banks.
  - 606. Misconduct by officers of banking department.
  - 607. Using dies and plates of extinct state bank.
  - 609. Private banker using sign.
  - 610. Misconduct of officers and directors of stock corporations.
  - 611. Misconduct of officers and employes of corporations.
  - 612. Misconduct of officers and agents of pipe-line corporations.
  - 613. Misconduct of corporate elections.
  - 614. Presumption of knowledge of corporate condition and business and of assent thereto by directors; definitions.

**§ 590. [am'd 1892.] Frauds in the organization of corporations.** A person who :

1. Without authority subscribes the name of another to or inserts the name of another in any prospectus, circular or other advertisement or announcement of any corporation or joint-stock association existing or intended to be formed, with intent to permit the same to be published, and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member or promoter of such corporation or association; or,

2. Signs the name of a fictitious person to any subscription for or agreement to take stock in any corporation, existing or proposed; or,

3. Signs to any such subscription or agreement the name of any person, knowing that such person does not intend in good faith to comply with the terms thereof, or under any understanding or agreement that the terms of such subscription or agreement are not to be complied with or enforced;

**Is guilty of a misdemeanor.**

**§ 591. [am'd 1892.] Fraudulent issue of stock, etc.** An officer, agent or other person in the service of any joint-stock company or corporation formed or existing under the laws of this state, or of the United States or of any state or territory thereof, or of any foreign government or country, who willfully and knowingly, with intent to defraud, either:

1. Sells, pledges or issues, or causes to be sold, pledged or issued, or signs or executes, or causes to be signed or executed with intent to sell, pledges or issues, or causes to be sold, pledged or issued, any certificate or instrument purporting to be a certificate or evidence of the ownership of any share or shares of such company or corporation, or any bond or evidence of debt, or writing purporting to be a bond or evidence of debt of such company or corporation, without being first thereto duly authorized by such company or corporation, or contrary to the charter or laws under which such corporation or company exists, or in excess of the power of such company or corporation or of the limit imposed by law or otherwise upon its power to create or issue stock or evidences of debt; or,

2. Reissues, sells, pledges or disposes of, or causes to be reissued, sold, pledged or disposed of, any surrendered or canceled certificates, or other evidence of the transfer or ownership of any such share or shares, is punishable by imprisonment for a term not exceeding seven years, or by a fine not exceeding three thousand dollars, or by both.

**§ 592. [am'd 1892.] Frauds in procuring organization, corporation, etc.** An officer, agent or clerk of a corporation, or of person proposing to organize a corporation or to increase the capital stock of a corporation, who knowingly exhibits a false, forged or altered book, paper, voucher, security or other instrument of evidence to any public officer or board authorized by law to examine the organization of such corporation, or to investigate its affairs, or to allow an increase of its capital, with intent to deceive such officer or board in respect thereto, is punishable by imprisonment in a state prison not exceeding ten years.

**§ 593. [am'd 1892.] Acting for foreign corporations not authorized to do business in this state.** Any person or corporation who acts as agent or representative of any mortgage company or co-operative loan and building association organized outside of this state, while such mortgage company or co-operative loan and building association shall not be authorized under a license of the superintendent of banks to do business in this state, is guilty of a misdemeanor.

**§ 594. [am'd 1892.] Misconduct of directors of stock corporations.** A director of a stock corporation, who concurs in any vote

or act of the directors of such corporation, or any of them, by which it is intended,

1. To make a dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law ; or

2 To divide, withdraw, or in any manner pay to the stockholders, or any of them, any part of the capital stock of the corporation ; or to reduce such capital stock without the consent of the legislature ; or

3. To discount or receive any note or other evidence of debt in payment of an installment of capital stock actually called in, and required to be paid, or with intent to provide the means of making such payment ; or

4. To receive or discount any note or other evidence of debt with intent to enable any stockholder to withdraw any part of the money paid in by him on his stock ; or

5. To apply any portion of the funds of such corporation, except surplus profits, directly or indirectly, to the purchase of shares of its own stock ; or

6. To receive any such shares in payment or satisfaction of a debt due to such corporation ; or

7. To receive in exchange for the shares, notes, bonds or other evidences of debt of such corporation, shares of the capital stock, notes, bonds or other evidences of debt issued by any other stock corporation engaged in another line of business, unless authorized by law to make such exchange,

Is guilty of a misdemeanor.

2 R. S. 597, § 1.

**§ 595. Misconduct of directors of banking corporations.** A director of a corporation, organized under the laws of this state, having banking powers, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended, either

1. To make a loan, or discount, by which the whole amount of the loans and discounts of the corporation shall be greater than the amount allowed by law, or, where there is no express statutory limitation of the amount, greater than three times its capital stock then paid in and actually possessed ; or

2. To make a loan or discount to any director of such corporation, or upon paper upon which any such director is responsible to an amount exceeding the amount allowed by statute, or where there is no express statutory limitation of the amount, exceeding in the aggregate one-third of the capital stock of such corporation, then paid in and actually possessed,

Is guilty of a misdemeanor.



**§ 596. Loans made in violation of last section, not invalid.** Nothing in the last section shall render any loan made by the directors of any such corporation, in violation thereof, invalid.

**§ 597. Sale or hypothecation of bank notes by officer, etc.** An officer or agent of any corporation having banking powers, who sells, or causes or permits to be sold, any bank notes of such corporation, or pledges or hypothecates, or causes or permits to be pledged or hypothecated, with any other corporation, association or individual, any such notes, as a security for a loan or for any liability of such corporation, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars, or both.

2 R. S. 311, §§ 91, 95.

**§ 598. Officer of bank putting excessive number of its notes in circulation.** An officer or agent of any corporation having banking powers, who issues or puts in circulation, or causes or permits to be issued or put in circulation, the bank notes of such corporation to an amount, which, together with previous issues, leaves in circulation or outstanding a greater amount of notes than such corporation is allowed by law to issue and circulate, is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars, or both.

2 R. S. 297, §§ 92, 95.

**§ 599. Officer or agent of banking corporation making guarantee or indorsement, in its behalf, in certain cases.** An officer or agent of any banking corporation, who makes or delivers any guaranty or indorsement on behalf of such corporation, whereby it may become liable on any of its discounted notes, bills or obligations, in a sum beyond the amount of loans and discounts which such corporation may legally make, is guilty of a misdemeanor.

3 R. S. 312, §§ 98, 95.

**§ 600. Bank officer overdrawing his account.** An officer, agent, teller or clerk of any bank, banking association or savings bank, who knowingly overdraws his account with such bank, and thereby wrongfully obtains the money, notes or funds of such bank, is guilty of a misdemeanor.

**§ 601. Receiving deposits in insolvent bank.** An officer, agent, teller or clerk of any bank, banking association or savings bank, and every individual banker or agent, and any teller or clerk of an individual banker, who receives any deposits knowing that such bank, or association, or banker is insolvent, is guilty of a misdemeanor.

§ 602. [*am'd* 1892.] **Unlawful investments by officers of savings banks.** Any officer or trustee of a savings bank authorizing or making any investment of the funds of the bank in securities, not authorized by law, is guilty of a misdemeanor.

§ 602a. [*added* 1892.] **Frauds in preparing accounts.** A director, officer or agent of any corporation or joint-stock association, who knowingly receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and with intent to defraud, omits to make, or cause or direct to be made, a full and true entry thereof, in the books or accounts of such corporation or association; and a director, officer, agent or member of any corporation or joint-stock association who, with intent to defraud, destroys, alters, mutilates or falsifies any of the books, papers, writings or securities belonging to such corporation or association, or makes or concurs in making any false entry, or omits or concurs in omitting to make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in a state prison not exceeding ten years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

§ 603. [*am'd* 1892.] **Misconduct by directors of moneyed corporations.** Every director of a moneyed corporation who:

1. In case of the fraudulent insolvency of such corporation, shall have participated in such fraud; or,

2. Willfully does any act as such director which is expressly forbidden by law, or willfully omits to perform any duty imposed upon him as such director by law;

Is guilty of a misdemeanor, if no other punishment is prescribed therefor by law.

The insolvency of a moneyed corporation is deemed fraudulent unless its affairs appear upon investigation to have been administered fairly, legally and with the same care and diligence that agents receiving a compensation for their services are bound, by law, to observe.

§ 604. [*am'd* 1892.] **Misconduct by banks and bankers.** Any moneyed corporation or individual banker authorized to carry on the business of banking under the laws of this state who:

1. Receives, pays out, gives or offers in payment as money to circulate, or who attempts to circulate as money, any bill, note or other evidence of debt issued or purporting to have been issued by any corporation or individual situated or residing without this state, and which bill, note or other evidence of debt shall, upon any part thereof, purport to be payable or redeemable at any place or by any corporation or individual within this state; or,

2. Issues, utters or circulates as money, or in any way, directly or indirectly, aids or assists in the issuing, uttering or circulating as money within this state, of any bank bill, note or other evidence of debt in the similitude of a bank note issued or purporting to have been issued by any corporation or individual situated or residing without this state; or procures or receives, in any manner whatever, any such bank bill, note or other evidence of debt with intent to issue, utter or circulate, or with intent to aid in issuing, uttering or circulating the same as money within this state; or,

3. Directly or indirectly lends or pays out for paper discounted or purchased any bank bill, note or other evidence of debt, which is not received at par by such corporation or banker for debts due such corporation or banker; or,

4. Issues or puts in circulation any bank bill or note of any such corporation or banker, unless the same shall be made payable on demand and without interest, except bills of exchange on foreign countries or places beyond the limits or jurisdiction of the United States;

Is guilty of a misdemeanor. Nothing in this section contained shall be construed to prohibit any such corporation or banker from receiving and paying out such foreign bank bills as they shall receive at par in the ordinary course of their business, or to prohibit such corporation or banker from receiving foreign notes from their dealers and customers in the regular and usual course of their business, at a rate of discount not exceeding that which is or shall be at the time fixed by law, for the redemption of the bills of the banks of this state at their agencies, or from obtaining from the corporations, associations or individuals by which such foreign notes are made, the payment or redemption thereof.

**§ 605. [am'd 1892.] Unlawful discount of bills of foreign banks.**

Any person, association or corporation within the state who, directly or indirectly, on any pretense whatever, procures or receives or offers to receive from any corporation or person any bank bill or note or other evidence of debt in the similitude of a bank note issued or purporting to have been issued by any corporation or individual situated or residing without this state, at a greater rate of discount than is or shall be at the time fixed by law for the redemption of the bills of the banks of this state at their agencies, is guilty of a misdemeanor.

**§ 606. [am'd 1892.] Misconduct by officers of banking department.** The superintendent of banks, or any officer in the banking department who countersigns bills or notes for any person or corporation exceeding the value of the interest-bearing stocks of the state of New York or of the United States, or other securities deposited with such superintendent by such person or corporation on account thereof, is guilty of a felony, punishable by a fine of not less than five thousand dollars or by imprisonment for not less than five years, or by both.

§ 607. [*original section repealed 1882; new section added 1892.*] **Using dies and plates of extinct state bank.** Any person who uses the dies and plates of a state bank in the manufacture of notes and bills, after such bank has become a national bank in pursuance of law, is guilty of a misdemeanor.

§ 608. Repealed, 1882.

§ 609. [*am'd 1892.*] **Private banker using sign.** Any person engaged in banking in this state, not subject to the supervision of the superintendent of banks, and not required by law to report to such superintendent, who was not engaged in such banking before May 23d, 1885, who

1. Uses an office sign at the place where such business is transacted, having thereon any artificial or corporate name, or other words indicating that such place or office is the place or office of a bank; or,

2. Uses or circulates any letter-heads, bill-heads, blank notes, blank receipts, certificates, circulars or any written or printed paper whatever, having thereon any artificial or corporate name, or other word or words indicating that such business is the business of a bank; Is guilty of a misdemeanor.

§ 610. [*am'd 1892.*] **Misconduct of officers and directors of stock corporations.** An officer or director of a stock corporation who:

1. Issues, participates in issuing, or concurs in a vote to issue any increase of its capital stock beyond the amount of the capital stock thereof, duly authorized by or in pursuance of law; or,

2. Sells, or agrees to sell, or is directly or indirectly interested in the sale of any share of stock of such corporation, or in any agreement to sell the same, unless at the time of such sale or agreement he is an actual owner of such share;

Is guilty of a misdemeanor, punishable by imprisonment for not less than six months, or by a fine not exceeding five thousand dollars, or by both.

§ 611. [*am'd 1892.*] **Misconduct of officers and employees of corporations.** A director, officer, agent or employe of any corporation or joint-stock association who:

1. Knowingly receives or possesses himself of any of its property otherwise than in payment for a just demand, and with intent to defraud, omits to make or to cause or direct to be made a full and true entry thereof in its books and accounts; or,

2. Concurs in omitting to make any material entry thereof; or,

3. Knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition, containing any material statement which is false; or,

4. [*am'd 1893.*] **Having the custody or control of its books, willfully refuses or neglects to make any proper entry in the stock book of such**

corporation as required by law, or to exhibit or allow the same to be inspected, and extracts to be taken therefrom by any person entitled by law to inspect the same, or take extracts therefrom.

5. If a notice of an application for an injunction affecting the property or business of such joint-stock association or corporation is served upon him, omits to disclose the fact of such service and the time and place of such application to the other directors, officers and managers thereof; or,

6. Refuses or neglects to make any report or statement lawfully required by a public officer;

Is guilty of a misdemeanor.

§ 612. [*am'd 1892.*] **Misconduct of officers and agents of pipe-line corporations.** Any officer, agent or manager of a pipe-line corporation who:

1. Neglects or refuses to transport any product delivered for transportation, or to accept and allow a delivery thereof in the order of application, according to the general rules of the corporation, as provided by law; or,

2. Charges, accepts or agrees to accept for such receipt, transportation and delivery, a sum different from the amount fixed by such regulations; or,

3. Allows or pays, or agrees to allow or pay, or suffers to be allowed or paid or repaid, any draw-back, rebate or allowance, so that any person shall, by any device, have or procure any transportation of products over such pipe-line at a less rate or charge than is fixed in such regulations;

Is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars, or by imprisonment not exceeding six months, or by both.

§ 613. [*am'd 1892.*] **Misconduct of corporate elections.** Any person who:

1. Votes or issues a proxy to vote at any meeting of the stockholders or bondholders, or both, of a stock corporation, upon any stock or bond, if the person in whose behalf such vote is given shall not then have the title to the stock represented by such certificate or to such bond, and shall not have it in his possession and control, notwithstanding such stock or bond shall then stand on the books of such corporation in the name of the person in whose behalf such vote is given; or,

2. Being entitled to vote at such meeting, sells his vote or issues a proxy to vote to any person for any sum of money or thing of value; or,

3. Acts as an inspector of election at any such meeting and violates an oath taken by him in pursuance of law as such inspector, or violates the provisions of an oath required by law to be taken by

him as such inspector, or is guilty of any dishonest or corrupt conduct as such inspector;

Is guilty of a misdemeanor.

§ 614. [*am'd 1892.*] **Presumption of knowledge of corporate condition and business and of assent thereto by directors; definitions.** It is no defense to a prosecution for a violation of the provisions of this chapter, that the corporation is a foreign corporation, if it carries on business or keeps an office therefor in this state.

The term "director" as used in this chapter includes any of the persons having, by law, the direction or management of the affairs of a corporation, by whatever name described.

A director of a corporation or joint-stock association is deemed to have such a knowledge of the affairs of the corporation or association as to enable him to determine whether any act, proceeding or omission of its directors is a violation of this chapter. If present at a meeting of the directors at which any act, proceeding or omission of such directors in violation of this chapter occurs, he must be deemed to have concurred therein, unless he at the time causes or in writing requires his dissent therefrom to be entered on the minutes of the directors. If absent from such meeting, he must be deemed to have concurred in any such violation, if the facts constituting such violation appear on the record or minutes of the proceedings of the board of directors, and he remains a director of the corporation for six months thereafter without causing or in writing requiring his dissent from such violation to be entered on such record or minutes.

## CHAPTER XII.

### FRAUDS IN THE SALE OF PASSAGE TICKETS.

- SECTION 615.** Sale of passage tickets on vessels and railroad, forbidden, except by agents specially authorized.
616. Sales by authorized agents, restricted.
617. Unauthorized persons forbidden to sell certificates, receipts, etc., for the purpose of procuring tickets.
618. Punishment for violation of the preceding sections.
619. Conspiring to sell passage tickets in violation of law.
620. Conspirators may be indicted, notwithstanding object of conspiracy has not been accomplished.
621. Offices kept for unlawful sale of passage tickets, declared disorderly houses.
622. Owners, purasers, etc., allowed to sell tickets.
623. Station masters, conductors, etc., allowed to sell tickets.
624. What must be stated in passage tickets.
625. Sale of tickets not filled out as required in last section, a misdemeanor.
626. Certain sales and exchanges of passenger tickets.
627. "Company" defined.

§ 615. Repealed, 1882.

§ 616. **Sales by authorized agents, restricted.** No person except as allowed in section 622 shall ask, take or receive any money or valuable thing as a consideration for any passage or conveyance upon any vessel or railway train, or for the procurement of any ticket or instrument giving or purporting to give a right, either absolutely or upon a condition or contingency, to a passage or conveyance upon a vessel or railway train, or a berth or state-room on a vessel, unless he is an authorized agent within the provisions of the last section; nor shall any person, as such agent, sell or offer to sell any such ticket, instrument, berth or state-room, or ask, take or receive any consideration for any such passage, conveyance, berth or state-room, excepting at the office designated in his appointment, nor until he has been authorized to act as such agent according to the provisions of the last section, nor for a sum exceeding the price charged at the time of such sale, by the company, owners or consignees of the vessel or railway mentioned in the ticket. But a person who shall have purchased a ticket in good faith for his own passage, and shall have been prevented from using the same, may sell the ticket at any price not greater than the regular rate established therefor, to another purchaser in good faith, for his own use.

§ 617. **Unauthorized persons forbidden to sell certificates, receipts, etc.** No person other than an agent appointed, as provided in section 615, shall sell, or offer to sell, or in any way attempt to dispose of any order, certificate, receipt or other instrument for the purpose, or under the pretense, of procuring any ticket, or instrument mentioned in section 615, upon any company or line, vessel or railway train therein mentioned. And every such order sold or offered for sale by any agent, must be directed to the company, owners or consignees at their office.

§ 618. [*am'd* 1892.] **Punishment for violation of the preceding sections.** A person guilty of a violation of any of the provisions of the preceding sections of this chapter is punishable by imprisonment in a state prison not exceeding two years, or imprisonment in a county jail not exceeding six months.

§ 619. **Conspiring to sell passage tickets in violation of law.** All persons who conspire together to sell or attempt to sell to any person any passage ticket, or other instrument mentioned in sections 615 and 617, in violation of those sections, and all persons, who, by means of any such conspiracy obtain, or attempt to obtain, any money or other property, under the pretense of procuring or securing any passage or right of passage in violation of this chapter, are punishable by imprisonment in a state prison not exceeding five years.

**§ 620. Conspirators may be indicted notwithstanding object of conspiracy has not been accomplished.** Persons guilty of violating the last section may be indicted and convicted for a conspiracy, though the object of such conspiracy has not been executed.

**§ 621. [*am'd 1892.*] Offices kept for unlawful sale of passage tickets, declared disorderly houses.** All offices kept for the purpose of selling passage tickets in violation of any of the provisions of this chapter, and all offices where any such sale is made, are deemed disorderly houses; and all persons keeping any such office, and all persons associating together for the purpose of violating any of the provisions of this chapter, are punishable by imprisonment in a county jail for a period not exceeding six months.

**§ 622. Owners, pursers, etc., allowed to sell tickets.** The provisions of this chapter do not prevent the actual owners or consignees of any vessel, from selling passage tickets thereon; nor do they prevent the purser or clerk of any vessel from selling in his office on board of such vessel, any passage tickets upon such vessel.

**§ 623. Station masters, conductors, etc., allowed to sell tickets.** The provisions of this chapter do not prevent the station master or other ticket agent upon any railway, from selling in his office at any station on such railway, any passage tickets upon such railway; nor do they prevent any conductor upon a railway from selling such tickets upon the trains of such railway.

**§ 624. What must be stated in passage tickets.** A ticket or instrument issued as evidence of a right of passage upon the high seas, from any port in this state, to any port of any other state or nation, and every certificate or order issued for the purpose, or under pretense of procuring any such ticket or instrument, and every receipt for money paid for such ticket or instrument must state the name of the vessel on board of which the passage is to be made, the name of the owners or consignees of such vessel, the name of the company, or he, if any, to which such vessel belongs, the place from which such passage is to commence, the place where such passage is to terminate, the day of the month and year upon which the voyage is to commence, the name of the person or persons purchasing such ticket or instrument, or receiving such order, certificate or receipt, and the amount paid therefor; and such ticket or instrument, order, certificate or receipt, unless sold or issued by the



owners or consignees of such vessel, must be signed by their authorized agent.

**§ 625. Sale of tickets not filled out as required in last section, a misdemeanor.** A person who issues, sells or delivers to another, any ticket, instrument, certificate, order or receipt, which is not made or filled out as prescribed in the last section, is guilty of a misdemeanor.

**§ 626. Certain sales and exchanges of passenger tickets.** A person who,

1. Sells, or causes to be sold, a passage ticket, or order for such ticket on any railway, vehicle, or vessel, to any emigrant passenger at a higher rate than one and a quarter cents per mile, or

2. Takes payment for any such ticket or order for a ticket under a false representation as to the class of the ticket, whether emigrant or first-class; or

3. Directly or indirectly, by means of false representations, purchases or receives from an emigrant passenger any such ticket; or

4. Procures or solicits any such passenger having such ticket, to exchange the same for another passenger ticket, or to sell the same and purchase some other passenger ticket; or

5. Solicits or books any passenger arriving at the port of New York from a foreign country, before such passenger has left the vessel on which he has arrived, or enters or goes on board any vessel arriving at the port of New York from a foreign country, having emigrant passengers on board, for the purpose of soliciting or booking such passengers, and a person or agent of a corporation employing any person for the purpose of booking such passengers before leaving the ship;

Is guilty of a misdemeanor.

1 R. S. 1087, §§ 78-81.

**§ 627. "Company" defined.** The term "company," as used in this chapter, includes all corporations, whether created under the laws of this state, or of the United States, or of those of any other state or nation.

## CHAPTER XIII.

### FRAUDULENT ISSUE OF DOCUMENTS OF TITLE OF MERCHANDISE.

**SECTION 628.** By pipe-line corporations.

629. Issuing fictitious bills of lading, receipt and vouchers.

630. Erroneous bills of lading or receipts issued in good faith, excepted.

- 631. Duplicate receipts must be marked "duplicate."
- 632. Selling, hypothecating or pledging property received for transportation or storage.
- 633. Bill of lading or receipt issued by warehouseman, must be canceled on redelivery of the property.
- 634. Property demanded by process of law.

§ 628. [*am'd* 1892.] **By pipe-line corporations.** A pipe-line corporation, or a person being the officer, agent, manager or representative thereof, who:

1. Accepts, makes or issues any receipt, certificate or order of any kind for any commodity, unless the commodity represented is actually at the time in the possession of the corporation; or,
2. Delivers to any person any petroleum or other commodity received for transportation by such corporation without the presentation and surrender of all vouchers, receipts, orders or certificates that have been issued or accepted for the same; or,
3. Having parted with the possession of any commodity and having received therefor an order, voucher, receipt or certificate, shall reissue the same, or shall not cause it to be canceled by the word "canceled" stamped or printed legibly across the face thereof, and to be filed and recorded by such corporation, as provided by law;

Is guilty of a misdemeanor.

§ 629. [*am'd* 1892.] **Issuing fictitious bills of lading, receipts and vouchers.** A person who:

1. Being the master, owner or agent of any vessel, or officer or agent of any railway, express or transportation company, or otherwise being or representing any carrier, who delivers any bill of lading, receipt or other voucher, by which it appears that merchandise of any kind has been shipped on board a vessel, or delivered to a railway, express or transportation company, or other carrier, unless the same has been so shipped or delivered and is at the time actually under the control of such carrier, or the master, owner or agent of such vessel, or of some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt or voucher; or,
2. Carrying on the business of a warehouseman, wharfinger or other depository of property, who issues any receipt, bill of lading or other voucher for merchandise of any kind which has not been actually received upon the premises of such person, and is not under his actual control at the time of issuing such instrument, whether such instrument is issued to a person as being the owner of such merchandise, or as security for any indebtedness;

Is guilty of a misdemeanor, punishable by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

**§ 630. Erroneous bills of lading or receipts, issued in good faith, excepted.** No person can be convicted of an offense under the last two sections, for the reason that the contents of any barrel, box, case, cask or other vessel or package mentioned in the bill of lading, receipt or other voucher did not correspond with the description given in such instrument of the merchandise received, if such description corresponds substantially with the marks, labels or brands upon the outside of such vessel or package, unless it appears that the defendant knew that such marks, labels or brands were untrue.

**§ 631. Duplicate receipts must be marked "duplicate."** A person mentioned in sections 628 and 629, who issues any second or duplicate receipt or voucher, of a kind specified in those sections, at a time while a former receipt or voucher for the merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "duplicate," in a plain and legible manner, is punishable by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

**§ 632. Selling, hypothecating or pledging property received for transportation or storage.** A person mentioned in sections 628 and 629, who sells or pledges any merchandise for which a bill of lading, receipt or voucher has been issued by him, without the consent in writing thereto of the person holding such bill, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

**§ 633. Bill of lading or receipt issued by warehouseman, must be canceled on redelivery of the property.** A person mentioned in section 629, who delivers to another any merchandise for which a bill of lading, receipt or voucher has been issued, unless such receipt or voucher bears upon its face the words, "not negotiable," plainly written or stamped, or unless such receipt is surrendered to be canceled at the time of such delivery, or unless, in the case of a partial delivery, a memorandum thereof is indorsed upon such receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

**§ 634. Property demanded by process of law.** The last two sections do not apply to any case where property is demanded by virtue of legal process.

## CHAPTER XIV.

## MALICIOUS MISCHIEFS AND OTHER INJURIES TO PROPERTY.

- SECTION 635.** Injury to railroad track, etc., how punished.
- 636.** Damaging building, etc., by explosion.
- 637.** Burning certain property, how punished.
- 638.** Altering, etc., signal or light for vessel, etc.
- 639.** Injuring highway boundary, pier, sea wall, dock, lock, buoy, land-mark, mile board, pipe, main, sewer, machine, telegraph, poisoning well, etc.
- 640.** Malicious injury and destruction of property.
- 640a.** Trespasses on Indian land.
- 640b.** Trespasses on Onondaga reservation.
- 640c.** Cutting ice in front of premises of another.
- 641.** Divulging, etc., telegram, a misdemeanor.
- 642.** Opening or publishing a sealed letter, etc.
- 643.** Affixing advertisement to another's land, etc., how punished.
- 644.** Presumptive evidence against certain persons.
- 645.** Endangering life by maliciously placing explosive near building.
- 646.** Malicious injury to standing crops, when a misdemeanor.
- 647.** Willful injury to works of art, etc., a misdemeanor.
- 648.** Malicious injury to certain articles in museum, etc., how punished.
- 649.** Destroying or delay of election returns.
- 650.** Property in house of worship, etc.
- 651.** Unlawful interference with gas meter.
- 652.** Driving vehicle, etc., on sidewalks.
- 653.** Coercing another person, a misdemeanor.
- 654.** Injury to other property, how punished.

**§ 635.** [*am'd* 1890, 1892.] **Injuries to railroad tracks, etc.** A person who:

1. Displaces, removes, injures or destroys any rail, sleeper, switch, bridge, viaduct, culvert, embankment, or structure, or any part thereof, attached, appertaining to or connected with any railway, whether operated by steam, horses, or other motive power; or,
2. Places any obstruction upon the track of any such railway; or,
3. Willfully destroys or breaks any guard erected or maintained by a railroad corporation as a warning signal for the protection of its employes; or,
4. Willfully discharges a loaded firearm, or projects or throws a stone or other missile at a railway train, or at a locomotive, car or vehicle standing or moving upon a railway; or,
5. Willfully displaces, removes, cuts, injures or destroys any wire, insulator, pole, dynamo, motor, locomotive, or any part thereof, attached, appertaining to or connected with any railway operated by electricity, or willfully interferes with or interrupts any motive power used in running such road, or willfully places any obstruction upon the track of such railroad, or willfully discharges a loaded firearm, or projects or throws a stone or any other missile at such railway train or locomotive, car or vehicle, standing or moving upon such railway;

Is punishable as follows:

1. If thereby the safety of any person is endangered, by imprisonment for not more than ten years.
2. In every other case, by imprisonment for not more than three years or by a fine of not more than two hundred and fifty dollars, or both.

§ 636. **Damaging building, etc., by explosion.** A person who unlawfully and maliciously, by the explosion of gunpowder, or any other explosive substance, destroys or damages any building or vessel, is punishable as follows :

1. If thereby the life or safety of a human being is endangered, by imprisonment for not more than ten years ;

2. In every other case by imprisonment for not more than five years.

§ 637. **Burning certain property, how punished.** A person who willfully burns or sets fire to any grain, grass, or growing crop, or standing timber, or to any building, fixtures or appurtenances to real property of another, under circumstances not amounting to arson in any of its degrees, is punishable by imprisonment for not more than four years.

§ 638. **Altering, etc., signal or light for vessel, etc.** A person who, with intent to bring a vessel, railway engine, or railway train into danger, either

1. Unlawfully or wrongfully shows, masks, extinguishes, alters, or removes a light or other signal ; or

2. Exhibits any false light or signal ;

Is punishable by imprisonment for not more than ten years.

§ 639. **Injuring highway boundary, pier, sea wall, dock, rock, buoy, landmark, mile board, pipe, main, sewer, machine, telegraph, etc.** A person who willfully or maliciously displaces, removes, injures, or destroys,

1. A public highway or bridge, or a private way laid out by authority of law, or a bridge upon such public or private way ; or

2. A pier, boom, or dam, lawfully erected or maintained upon any water within the state, or hoists any gate in or about such dam ; or

3. A pile, or other material, fixed in the ground and used for securing any sea bank or sea walls, or the bank or dam of any river or other water, or any dock, quay, jetty, or lock ; or

4. A buoy or beacon, lawfully placed in any waters within the state ; or

5. A tree, rock, post, or other monument, which has been either erected or marked for the purpose of designating a point in the boundary of the state, or of a county, city, town, or village, or of a farm, tract, or lot of land, or any mark or inscription thereon ; or

6. A mile board, mile stone, or guide post, erected upon a highway, or any inscription upon the same ; or

7. [*am'd 1892.*] A line of telegraph or telephone, wire or cable, pier or abutment, or the material or property belonging thereto, without lawful authority, or who shall unlawfully and willfully cut, break, tap or make connection with any telegraph or telephone line, wire, cable or instrument, or read or copy in any unauthorized

manner any message, communication or report passing over it, in this state; or who shall willfully prevent, obstruct or delay, by any means or contrivance whatsoever, the sending, transmission, conveyance or delivery, in this state, of any authorized message, communication or report by or through any telegraph or telephone line, wire or cable, under the control of any telegraph or telephone company doing business in this state; or who shall aid, agree with, employ or conspire with any person or persons to unlawfully do, or permit or cause to be done, any of the acts hereinbefore mentioned, or who shall occupy, use a line, or shall knowingly permit another to occupy, use a line, a room, table, establishment or apparatus to unlawfully do or cause to be done any of the acts hereinbefore mentioned; or

8. A pipe or main for conducting gas or water, or any works erected for supplying buildings with gas or water, or any appurtenance or appendage connected therewith; or

9. A sewer or drain, or a pipe or main connected therewith, or forming part thereof; or who

10. Destroys or damages with intent to destroy or render useless any engine, machine, tool or implement intended for use in trade or husbandry;

Is punishable by imprisonment for not more than two years.

**§ 640. Malicious injury and destruction to property.** A person who willfully,

1. Cuts down, destroys or injures any wood or timber standing or growing, or which has been cut down and is lying on lands of another, or of the people of the state; or

2. Cuts down, girdles or otherwise injures a fruit, shade or ornamental tree standing on the lands of another, or of the people of the state; or

3. Severs from the freehold of another, or of the people of the state, any produce thereof, or any thing attached thereto; or

4. Digs, takes or carries away without lawful authority or consent from any lot of land, in any incorporated city or village, or from any lands included within the limits of a street or avenue laid down on the map of such city or village, or otherwise recognized or established, any earth, soil or stone; or

5. Enters without the consent of the owner or occupant any orchard, fruit garden, vineyard, or ground whereon is cultivated any fruit, with intent to take, injure or destroy any thing there growing or grown; or

6. Cuts down, destroys or in any way injures any shrub, tree, or vine being or growing within any such orchard, garden, vineyard, or upon any such ground, or any building, frame work or erection thereon; or

7. Maliciously injures any ice upon any waters from which ice is taken as an article of merchandise, with intent to injure the owner thereof, or enters or skates upon any pond or body of water not navigable, kept and used for the purpose of taking ice therefrom as an article of merchandise, and upon or adjoining which a notice has been placed in a conspicuous position forbidding such entry, and stating the purpose for which said body of water is kept or used, or puts or throws upon or into any such pond or body of water any stick, stone or other substance to the injury of the ice or water ; or

8. [*am'd '88, '94.*] Unlawfully takes or carries away or interferes with or disturbs by any means the oysters or other shell fish of another, legally planted upon the bed of any river, bay, sound or water of this state, or removes, pulls up or destroys any stake or buoy designated or marking out any legally planted oyster bed of another is guilty of a misdemeanor; and any oysters planted upon the bed of any waters of this state leased by the commissioners of fisheries shall be deemed legally planted, and evidence that any boat or vessel has been used for the purpose of taking, carrying away or interfering with such oysters shall be presumptive evidence of guilt as against the owner, master or crew of such vessel.

9. Intrudes, or places any hovel, shanty or building upon, or within the limits of any lot, or piece of land within any incorporated city or village, without the consent of the owner, or within the boundary of any street or avenue within such city or village ; or

10. Kills, wounds, or traps any bird, deer, squirrel, rabbit or other animal, within the limits of any cemetery or public burying ground, or of any public park or pleasure ground, or removes the young of any such animal or the eggs of any such bird, from any cemetery, park or pleasure ground, or exposes for sale, or knowingly buys or sells any bird or animal so killed or taken ; or

11. [*am'd 1892.*] Drives or leads along a public highway a wild and dangerous animal, or a vehicle or engine propelled by steam, except upon a railroad, along a public highway, or causes or directs such animal, vehicle or engine to be so driven, led, or to be made to pass, unless a person of mature age shall precede such animal, vehicle or engine by at least one-eighth of a mile, carrying a red light, if in the night-time, and gives warning to all persons whom he meets traveling such highway, of the approach of such animal, vehicle or engine; or,

12. [*added 1889.*] Takes or attempts to take, without the consent of the owner of any lake or pond, any fish from the waters thereof, provided such lake or pond is so situated that fish cannot pass thereinto from the waters of any other lake, pond or stream, either public or owned by other persons ; or, without the consent of the owner of any such lake or pond, places therein any piscivorous fish or any poison or other substance injurious to the health of fish, or lets the waters out of any such lake or pond with intent to take fish therefrom, or harm fish therein.

13. [*added 1893.*] Injures any arsenal or armory, or its fixtures, or uniforms, arms or equipments, or other property therein deposit-

14. [*added 1893, amended 1894.*] Trespassers upon any rifle range lawfully used by or in connection with the national guard of the state or any organization, division or district thereof, or who injures any target or other property situate thereon, or who willfully violates thereon any regulation established to maintain order, preserve property or prevent accidents upon such range, or removes, mutilates or destroys a battle-flag, book, placard, relic or record deposited or kept in the state military bureau, is guilty of a misdemeanor.

Is punishable by imprisonment not exceeding six months or a fine not exceeding two hundred and fifty dollars, or both.

§ 640a. [*added 1893.*] **Trespasses on Indian land.** A person who cuts, removes, causes to be removed, or aids or assists in removing from the Allegany, Cattaraugus, Tonawanda or Onondaga reservations any wood, trees, timber, bark or poles, except as authorized by law, is guilty of a misdemeanor.

§ 640b. [*added 1893.*] **Trespasses on Onondaga reservation.** A person, other than an Onondaga Indian, who cuts or removes from the Onondaga reservation any tree, timber, wood, bark or poles; or an Indian who cuts, for the purpose of sale or removal from such reservation, or who removes, causes to be removed, or aids in the removal from such reservation of any tree, timber, wood, bark or poles, except on the written permission of a majority of the chiefs of the Onondaga tribe, particularly specifying the quantity and kind of trees, timber, wood, bark or poles to be cut or removed, is guilty of a misdemeanor.

§ 640c. [*added 1893.*] **Cutting ice in front of premises of another.** A person who takes possession of, or cuts ice in front of the lands of another, on any water except lakes, ponds, the Hudson and Mohawk rivers and the tide-waters of Rondout and Catskill creeks, between the center of such body of water and such lands, after the owner or occupant has posted in a conspicuous manner upon such lands near the banks of such waters a written or printed notice of his desire to cut ice in front of such lands; or

2. Trespasses upon or takes such ice, or any part thereof, for commercial purposes; or

3. Willfully removes any such notice, is guilty of a misdemeanor



**§ 641. Divulging, etc., telegram a misdemeanor.** A person who, either

1. Wrongfully obtains, or attempts to obtain, any knowledge of a telegraphic message by connivance with a clerk, operator, messenger, or other employee of a telegraph company ; or

2. Being such clerk, operator, messenger or other employee, willfully divulges, to any but the persons for whom it was intended, the contents of a telegraphic message or dispatch intrusted to him for transmission or delivery, or the nature thereof, or willfully refuses or neglects duly to transmit or deliver the same ;

Is punishable by a fine of not more than one thousand dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.

**§ 642. Opening or publishing a sealed letter, etc.** A person who willfully and without authority, either

1. Opens or reads, or causes to be opened or read, a sealed letter or telegram , or

2. Publishes the whole or any portion of such a letter or telegram, knowing it to have been opened or read without authority ;

Is guilty of a misdemeanor.

**§ 643. Affixing advertisement to another's land, etc., how punished.** A person who places upon or affixes to, or causes or procures to be placed upon or affixed to, real property not his own, or a rock, tree, wall, fence, or other structure thereupon, without the consent of the owner, any words, characters, or device, as a notice of, or reference to, any article, business, exhibition, profession, matter or event, is punishable by imprisonment for not more than six months, or by a fine of not more than two hundred and fifty dollars, or by both.

3 R. S. 985, § 112.

**§ 644. Presumptive evidence against certain persons.** The placing or affixing of any words, characters, device, or notice, of any article, business, or other thing, to or upon any property or place specified in the last section, is presumptive evidence that the proprietor, vendor, or exhibitor thereof caused or procured the same to be so placed or affixed.

**§ 645. Endangering life by maliciously placing explosive near building.** A person, who places in, upon, under, against, or near to, any building, car, vessel or structure, gunpowder or any other explosive substance, with intent to destroy, throw down, or injure the whole or any part thereof, under such circumstances, that, if the

intent were accomplished, human life or safety would be endangered thereby, although no damage is done, is guilty of a felony.

**§ 646. Malicious injury to standing crops, when a misdemeanor.** A person, who maliciously injures or destroys any standing crops, grain, cultivated fruits or vegetables, the property of another, in any case for which punishment is not otherwise prescribed by this Code or by some other statute, is guilty of a misdemeanor.

**§ 647. [am'd 1892.] Removal of books and works of art from library; willful injury of works of art, ornamental trees, etc.** Any person who,

1. Removes or assists in removing any book, manuscript, map, print, coin, medal, painting or other literary article or work of art from the library building of any reference library company, except for its preservation or repair, or for the purpose of its deposit in some other building of the company, or, being a trustee or officer of such company, consents to the removal thereof, or upon such removal refuses to permit the same to be restored; or,

2. Not being the owner thereof, and without lawful authority, willfully injures, disfigures, removes or destroys a gravestone, monument, work of art, or useful or ornamental improvement, or any shade tree or ornamental plant, whether situated upon private grounds or upon the street, road or sidewalk, cemetery or public park or place, or removes from any grave in a cemetery any flowers, memorials or other tokens of affection, or other thing connected with them,

Is guilty of a misdemeanor.

**§ 648. Malicious injury to certain articles in museum, etc., how punished.** A person, who maliciously cuts, tears, defaces, disfigures, soils, obliterates, breaks or destroys, a book, map, chart, picture, engraving, statue, coin, model, apparatus, specimen, or other work of literature or object of art, or curiosity, deposited in a public library, gallery, museum, collection, fair, or exhibition, is punishable by imprisonment in a state prison for not more than three years, or in a county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

**§ 649. [am'd 1892.] Destroying or delay of election returns.** A messenger appointed by authority of law to receive and carry a report, certificate or certified copy of any statement relating to the result of any election, who willfully mutilates, tears, defaces, obliterates or destroys the same, or does any other act which prevents the delivery of it as required by law; and a person who takes away from

such messenger any such report, certificate or certified copy, with intent to prevent its delivery, or who willfully does any injury or other act in this section specified, is punishable by imprisonment in a state prison not exceeding five years.

**§ 650. Property in house of worship, etc.** A person, who willfully and without authority, breaks, defaces or otherwise injures any house of religious worship, or any part thereof, or any appurtenance thereto, or any book, furniture, ornament, musical instrument, article of silver or plated ware, or other chattel kept therein for use in connection with religious worship, is guilty of felony.

**§ 651. [am'd 1893]. Unlawful interference with gas meter or steam valves.** A person who willfully, with intent to injure or defraud:

1. Connects a tube, pipe, or other instrument or contrivance, with a pipe used for the conducting or supplying illuminating gas, fuel, or natural gas, in such a manner as to supply such gas to any burner or orifice, where the same is or can be burned, or used, without passing through the meter or instrument provided for registering the quantity consumed; or

2. Obstructs, alters, injures or prevents the action of a meter or other instrument used to measure or register the quantity of illuminating fuel or natural gas consumed in a house or apartment, or at an orifice or burner, or by a consumer or other person, or a person other than a state inspector or deputy inspector of gas meters, or an employé of the company owning any gas meter, who willfully shall detach or disconnect such meter, or make or report any test of, or examine for the purpose of testing any such meter so detached or disconnected; or

3. In any manner whatever, changes, extends or alters, any service or other pipe, or attachment of any kind, connecting or through which natural or artificial gas is furnished from the gas mains or pipes of any person, company or corporation, without first procuring from said person, company or corporation written permission to make such change, extension or alteration; or

4. Makes any connection or reconnection, with the gas mains or service pipes of any person, company or corporation furnishing to consumers natural or artificial gas, or turns on or off, or in any manner interferes with any valve or stop-cock, or other appliances belonging to such person, company or corporation, and connected with its service or other pipes, or enlarges the orifice of mixers, or uses natural gas for heating purposes except through mixers, without first procuring from such person, company or corporation a written permit to turn on or off such stop-cock or valve, or to make such connections or reconnections, or to enlarge the orifice of mixers, or to use for heating purposes without mixers, or to interfere with the valves, stop-cocks, or other appliances of such person, company or corporation, as the case may be; or

5. Retains possession of, or refuses to deliver any mixer or mixers, or other appliances which may be, or may have been, loaned or rented to them by any person, company or corporation, for the purpose of furnishing gas through the same, or who sells, loans, or in any manner disposes of the same to any person or persons, other than the said person, company or corporation entitled to the possession of the same; or

6. Sets on fire any gas escaping from wells, broken or leaking mains, pipes, valves or other appliances used by any person, company or corporation, in conveying gas to consumers, or interferes in any manner with the wells, pipes, mains, gate-boxes, valves, stop-cocks, or any other appliances, machinery or property of any person, company or corporation engaged in furnishing gas to consumers, unless employed by or acting under the authority and direction of such person, company or corporation; or

7. Opens, or causes to be opened, or reconnects, or causes to be reconnected, any valve lawfully closed or disconnected by a district steam corporation; or

8. Turns on steam, or causes it to be turned on, or to re-enter any premises when the same has been lawfully stopped from entering such premises,

Is guilty of a misdemeanor.

**§ 652. Driving vehicle, etc., on sidewalks.** A person who willfully and without authority drives any team, vehicle, cattle, sheep, horse, swine, or other animal along upon a sidewalk is punishable by a fine of fifty dollars, or imprisonment in a county jail not exceeding thirty days, or by both.

**§ 653. Coercing another person, a misdemeanor.** A person who with a view to compel another person to do or to abstain from doing an act which such other person has a legal right to do or to abstain from doing, wrongfully and unlawfully,

1. Uses violence or inflicts injury upon such other person or his family, or a member thereof, or upon his property or threatens such violence or injury; or

2. Deprives any such person of any tool, implement or clothing or hinders him in the use thereof; or

3. Uses or attempts the intimidation of such person by threats or force,

Is guilty of a misdemeanor.

**§ 654. [am'd 1892.] Injury to other property, how punished.** A person who unlawfully and willfully destroys or injures any real or personal property of another, or who without authority or permission from a person who has the right to give such authority or permission, loosens any brake or blocking of any car standing on any railroad track in this state, or without like authority or permis-

slou, puts upon or runs any hand car, or other car, on any railroad track in this state, or without like authority or permission, interferes or meddles with any brake or coupling of any car while standing or moving on any railroad track in this state, or takes any part therein, in a case where the punishment is not specially prescribed by statute, is punishable as follows:

1. If the value of the property destroyed, or the diminution in the value of the property by the injury, is more than twenty-five dollars, by imprisonment for not more than four years.

2. In any other case, by imprisonment for not more than six months, or by a fine of not more than two hundred and fifty dollars, or by both such fine and imprisonment.

3. And in addition to the punishment prescribed therefor, he is liable in treble damages for the injury done, to be recovered in a civil action by the owner of such property, or the public officer having charge thereof.

## TITLE XVI.

### CRUELTY TO ANIMALS.

- SECTION 655.** Overdriving animal; failing to provide proper sustenance.
- 656. Abandonment of disabled animal.
  - 657. Failure to provide proper food and drink to impounded animal.
  - 658. Selling or offering to sell or exposing disabled animal.
  - 659. Carrying animal in a cruel manner, a misdemeanor.
  - 660. Animal wantonly poisoned, or attempted to be poisoned a misdemeanor.
  - 661. Throwing substance injurious to animals in public place a misdemeanor.
  - 662. Keeping milch cows in unhealthy places and feeding them with food producing unwholesome milk a misdemeanor.
  - 663. Transporting animals for more than 24 consecutive hours a misdemeanor.
  - 664. Setting on foot fights between birds and animals, a misdemeanor.
  - 665. Keeping, etc., a place where animals are fought, a misdemeanor.
  - 663. Running horses on highway, a misdemeanor.
  - 667. Leaving state to elude provisions of this title.
  - 668. Fines and penalties to be paid over to a society.
  - 669. Definitions.

**§ 655. Overdriving animal; failing to provide proper sustenance.** A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, over-

loaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a misdemeanor.

§ 656. [*am'd 1888.*] **Abandonment of disabled animal.** A person being the owner or possessor, or having charge or custody of a maimed, diseased, disabled or infirm animal, who abandons such animal, or leaves it to die in a street, road or public place, or who allows it to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled, is guilty of a misdemeanor. Any agent or officer of the American Society for the Prevention of Cruelty to Animals, or of any society duly incorporated for that purpose, may lawfully destroy or cause to be destroyed any animal found abandoned and not properly cared for, appearing in the judgment of two reputable citizens called by him to view the same in his presence, to be glandered, injured or diseased past recovery for any useful purpose. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent of said society may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place of custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a lien thereon.

§ 657. **Failure to provide proper food and drink to impounded animal.** A person who, having impounded or confined any animal, refuses or neglects to supply to such animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water, is guilty of a misdemeanor.

§ 658. **Selling or offering to sell or exposing, disabled animal.** A person who willfully sells or offers to sell, uses, exposes, or causes or permits to be sold, offered for sale, used or exposed, any horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the life or health of human beings, or animals, or which is diseased past recovery, or who refuses upon demand to deprive of life an animal affected with any such disease, is guilty of a misdemeanor.

§ 659. **Carrying animal in a cruel manner, a misdemeanor.** A person who carries or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor.

§ 660. **Animal wantonly poisoned, or attempted to be poisoned, a misdemeanor.** A person who unjustifiably administers any poisonous or noxious drug or substance to an animal, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by an animal, whether such animal be the property of himself or another, is guilty of a misdemeanor.

§ 661. **Throwing substance injurious to animals in public place, a misdemeanor.** A person who willfully throws, drops or places, or causes to be thrown, dropped or placed, upon any road, highway,

street or public place, any glass, nails, pieces of metal or other substance which might wound, disable or injure any animal, is guilty of a misdemeanor.

**§ 662. Keeping milch cows in unhealthy places and feeding them with food producing unwholesome milk, a misdemeanor.** A person who keeps a cow or any animal for the production of milk, in a crowded or unhealthy place, or in a diseased condition, or feeds such cow or animal upon any food that produces impure or unwholesome milk, is punishable by a fine not less than fifty dollars, or imprisonment not exceeding one year, or by both.

**§ 663. Transporting animals for more than 24 consecutive hours, a misdemeanor.** A railway corporation, or an owner, agent, consignee, or person in charge of any horses, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than 24 consecutive hours, without unloading for rest, water and feeding, during ten consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed. If the owner, agent, consignee, or other person in charge of any such animals refuses or neglects upon demand to pay for the care or feed of the animals while so unloaded or rested, the railway company, or other carriers thereof, may charge the expense thereof to the owner or consignee, and shall have a lien thereon for such expense.

**§ 664. Setting on foot fights between birds and animals, a misdemeanor.** A person who sets on foot, instigates, promotes, or carries on, or does any act as assistant, umpire, or principal, or is a witness of, or in any way aids in or engages in the furtherance of any fight between cocks or other birds, or dogs, bulls, bears, or other animals, premeditated by any person owning, or having custody of such birds or animals, is guilty of a misdemeanor punishable by fine not less than ten dollars, nor more than one thousand dollars, or by imprisonment not less than ten days nor more than one year, or both.

**§ 665. [am'd 1888.] Keeping, etc., a place where animals are fought, a misdemeanor.** A person who keeps or uses, or is in any manner connected with, or interested in the management of, or receives money for the admission of any person to, a house, apartment, pit or place kept or used for baiting, or fighting any bird or animal, and any owner or occupant of a house, apartment, pit or place who willfully procures or permits the same to be used or occupied for such baiting or fighting, is guilty of a misdemeanor. Upon complaint under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, that the complainant has just and reasonable cause to suspect that any of the provisions of law relating to or in any wise affecting animals are being or about to be violated in any particular building or place, such magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offenses, authorizing him to enter and search such building or place, and to arrest any person there present found violating any of said laws, and to bring such person before the nearest magistrate of competent jurisdiction, to be dealt with according to law,

§ 666. **Running horses on highway, a misdemeanor.** A person driving any vehicle upon any plank road, turnpike or public highway, who unjustifiably runs the horses drawing the same, or causes, or permits them to run, is guilty of a misdemeanor.

§ 667. **Leaving state to elude provisions of this title.** A person who leaves this state with intent to elude any of the provisions of this title or to commit any act out of this state which is prohibited by them, or who, being a resident of this state, does any act without this state, pursuant to such intent, which would be punishable under such provisions, if committed within this state, is punishable in the same manner as if such act had been committed within this state.

§ 668. [*am'd 1888.*] **Fines and penalties, to whom paid.** All fines, penalties or forfeitures imposed or collected for a violation of the provisions of this title, or of any act for the prevention of cruelty to animals, now in force or hereafter passed, must be paid on demand to the American Society for the Prevention of Cruelty to Animals; except where the prosecution shall be instituted or conducted by a society for the prevention of cruelty to animals duly incorporated under the general laws of this State, in which case such fine, penalty or forfeiture must be paid on demand to such society. A constable or police officer must, and any agent or officer of any said societies may, arrest and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of this title. Any officer or agent of any of said societies may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any person who shall interfere with or obstruct any such officer or agent in the discharge of his duty shall be guilty of a misdemeanor. Any of said societies may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting animals, and may aid in presenting the law and facts before such court, tribunal, or magistrate in any proceeding taken. The officers and agents of all duly incorporated societies for the prevention of cruelty to animals or children are hereby declared to be peace officers within the provisions of section one hundred and fifty-four of the Code of Criminal Procedure.

§ 669. **Definitions.** 1. The word "animal" as used in this title, does not include the human race, but includes every other living creature.

2. The word "torture" or "cruelty" includes every act, omission, or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.

3. The words "impure and unwholesome milk" include all milk obtained from animals in a diseased or unhealthy condition, or who are fed on distillery waste, usually called "swill," or upon any substance in a state of putrefaction or fermentation.

§ R. S. 976, § 51.



## TITLE XVII.

## OF MISCELLANEOUS CRIMES.

- SECTION 670.** Attorneys forbidden to defend criminal prosecutions carried on by their partners, or formerly by themselves.
- 671.** Attorneys may defend themselves.
- 672.** Fraudulently presenting bills or claims to public officers for payment.
- 673.** Endangering life by refusal to labor.
- 674.** Publishing false messages.
- 674a.** Unauthorized wearing badges of loyal legion.
- 675.** Acts not expressly forbidden.
- 676.** Acts committed out of the state.

**§ 670. Attorneys forbidden to defend criminal prosecutions carried on by their partners, or formerly by themselves.** An attorney, who directly or indirectly advises in relation to, or aids or promotes the defense of any action or proceeding in any court, the prosecution of, which is carried on, aided or promoted by a person as district attorney, or other public prosecutor, with whom such attorney is directly or indirectly connected as a partner; or who, having himself prosecuted or in any manner aided or promoted any action or proceeding in any court, as district attorney or other public prosecutor, afterwards directly or indirectly advises in relation to, or takes any part in, the defense thereof, as attorney or otherwise; or who takes or receives any valuable consideration from or on behalf of any defendant in any such action, upon any understanding or agreement whatever, express or implied, having relation to the defense thereof, is guilty of a misdemeanor.

**§ 671. Attorneys may defend themselves.** The last section does not affect sections 78, 79, 80 and 81 of the Code of Civil Procedure, and does not prohibit an attorney from defending himself in person, as attorney or as counsel, when prosecuted either civilly or criminally.

**§ 672. Fraudulently presenting bills or claims to public officers for payment.** A person who, knowingly, with intent to defraud, presents, for audit, or allowance, or for payment, to any officer or board of officers of the state, or of any county, town, city or village, authorized to audit, or allow, or to pay bills, claims or charges, any false or fraudulent claim, bill, account, writing or voucher, or any bill, account or demand, containing false or fraudulent charges, items or claims, is guilty of a felony.

**§ 673. Endangering life by refusal to labor.** A person who willfully and maliciously, either alone or in combination with others, breaks a contract of service or hiring, knowing, or having reasonable cause to believe, that the probable consequence of his so doing will be to endanger human life, or to cause grievous bodily injury, or to expose valuable property to destruction or serious injury, is guilty of a misdemeanor.

**§ 674. Publishing false messages.** A person who prints, publishes, or circulates, as true, any message, order, or proclamation, purporting to be the message, order, or proclamation, of the executive of the United States or of this state, or of any other state of the United States now or hereafter admitted, or of any territory of the United States, knowing the same not to be genuine, is punishable by imprisonment in a state prison not exceeding five years, or by fine not exceeding one thousand dollars, or by both. An indictment for this offense may be found in any county in which the message, address, or proclamation, is printed, published, or circulated, but not in more than one county of the State.

**§ 674a. [added 1893 and 1894.] Unauthorized wearing badge of loyal legion or society of colonial wars.** Any person who wilfully wears the insignia or rosette of the military order of the loyal legion of the United States or of any society, order or organization of ten years standing in the state of New York, or uses the same to obtain aid or assistance within this state, unless entitled to use or wear the same under the constitution and by-laws, rules and regulations of such order or of such society is guilty of a misdemeanor.

**§ 674b. [added 1894. Converting military property; unlawfully wearing uniform.** Any person who shall secrete, sell, dispose of, offer for sale, purchase, retain after demand made by a commissioned officer of the national guard, or in any manner pawn or pledge any arms, uniforms or equipments, issued under the provisions of the military code, and any person not a member of the national guard, except members of organizations specially authorized to do so by the military code, who shall wear any uniform or designation of grade similar to those in use by the national guard, issued or authorized under the provisions of said code, is guilty of a misdemeanor.

**§ 674c. [added 1894.] Introduction of spirituous or malt liquors into arsenal or armory.** Any person who introduces any wine, spirituous or malt liquors into any arsenal or armory, except when prescribed for medicinal purposes by a medical officer of the national guard, is guilty of a misdemeanor.

**§ 674d. [added 1894.] Unlawfully exacting toll of a member of the national guard.** Any person, master or keeper of a toll-gate, toll-bridge or ferry, or any person in charge thereof who wilfully hinders or delays any member of the national guard or refuses free passage to any such member going to or returning from any parade, encampment, drill or meeting which he may be by law required to attend, or wilfully hinders, delays or refuses free passage to any conveyance or military property of the state in charge of a member of said guard, is guilty of a misdemeanor.

**§ 674e. [added 1894.] Failure to respond to military duty.** Every member of an independent military organization not regularly organized as an organization of the national guard, who fails to respond or to do military duty, or refuses to enlist when lawfully called upon to do so by the commander-in-chief, in cases of emergency or necessity, is guilty of a misdemeanor,

§ 675. [*am'd 1891.*] **Relating to disorderly conduct on public conveyances.** Any person who shall, by any offensive or disorderly act or language, annoy or interfere with any person or persons in any place or with the passengers of any public stage, railroad car, ferry boat, or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat, or conveyance, by any disorderly act, language, or display, although such act, conduct, or display, may not amount to an assault or battery, shall be deemed guilty of a misdemeanor. A person who willfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency, for which no other punishment is expressly prescribed by this code, is guilty of a misdemeanor; but nothing in this code contained shall be so construed as to prevent any person from demanding an increase of wages, or from assembling and using all lawful means to induce employers to pay such wages to all persons employed by them as shall be a just and fair compensation for services rendered.

§ 676. **Acts committed out of the state.** A person who commits an act without this state which affects persons or property within this state, or the public health, morals, or decency, of this state, and which, if committed within this state, would be a crime, is punishable as if the act were committed within this state.

## TITLE XVIII.

### GENERAL PROVISIONS.

SECTION 677. When crimes punishable in different ways.

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679. Foreign conviction or acquittal.

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- SECTION 692.** Rule for punishment of accessory.
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**§ 677. When crimes punishable in different ways.** An act or omission which is made criminal and punishable in different ways, by different provisions of law, may be punished under any one of those provisions, but not under more than one; and a conviction or acquittal under one bars a prosecution for the same act or omission under any other provision.

**§ 678. Acts punishable under foreign law.** An act or omission declared punishable by this Code, is not less so because it is also punishable under the laws of another state, government or country, unless the contrary is expressly declared in this Code.

**§ 679. Foreign conviction or acquittal.** Whenever it appears upon the trial of an indictment, that the offense was committed in another state or country, or under such circumstances that the courts of this state or government had jurisdiction thereof, and that the defendant has already been acquitted or convicted on the merits upon a criminal prosecution under the laws of such state, or country, founded upon the act or omission in respect to which he is upon trial, such former acquittal or conviction is a sufficient defense.

3 R. S. 988, § 4.

**§ 680. Contempt, how punishable.** A criminal act is not the less punishable as a crime, because it is also declared to be punishable as a contempt of court.

3 R. S. 442, § 14.

**§ 681. Mitigation of punishment in certain cases.** Where it appears, at the time of passing sentence on a person convicted that he has already paid a fine or suffered an imprisonment for the act of which he stands convicted, under an order adjudging it a contempt, the court, passing sentence, may mitigate the punishment to be imposed, in its discretion.

**§ 682. Rule or punishment of accessory.** When an act or omission is declared by statute to be a misdemeanor, and no punishment for aiding or abetting in the doing thereof is expressly prescribed, every person who aids, or abets another in such act or omission is also guilty of a misdemeanor.

**§ 683. Sending letter, when deemed complete.** In the various cases, in which the sending of a letter is made criminal by this Code, the offense is deemed complete from the time when such letter is deposited in any post-office or other place, or delivered to any person, with intent that it shall be forwarded. And the party may be indicted and tried in any county wherein such letter is so deposited or delivered, or in which it is received by the person to whom it is addressed.

**684. Omission to perform duty.** No person is punishable for an omission to perform an act, where such act has been performed by another person acting in his behalf, and competent by law to perform it.

**§ 685. Attempts to commit crimes.** A person may be convicted of an attempt to commit a crime, although it appears on the trial that the crime was consummated, unless the court, in its discretion, discharges the jury and directs the defendant to be tried for the crime itself.

3 R. S. 994, § 47.

**§ 686. Same.** A person who unsuccessfully attempts to commit a crime is indictable and punishable, unless otherwise specially prescribed by statute, as follows :

1. If the crime attempted is punishable by the death of the offender, or by imprisonment for life, the person convicted of the attempt is punishable by imprisonment for not more than ten years.

2. In any other case, he is punishable by imprisonment for not more than half of the longest term, or by a fine not more than one-half of the largest sum, prescribed upon a conviction for the commission of the offense attempted, or by both such fine and imprisonment.

3 R. S. 988, § 3.

**§ 687. Restrictions upon preceding sections.** The last section does not protect a person who, in attempting unsuccessfully to commit a crime, accomplishes the commission of another and different crime, whether greater or less in guilt, from suffering the punishment prescribed by law for the crime committed.

**§ 688. Second offense.** A person, who, after having been convicted within this state, of a felony, or an attempt to commit a felony, or of petty larceny, or, under the laws of any other state, government, or country, of a crime which, if committed within this state, would be a felony, commits any crime, within this state, is punishable upon conviction of such second offense, as follows :

1. If the subsequent crime is such that, upon a first conviction, the offender might be punished, in the discretion of the court, by imprisonment for life, he must be sentenced to imprisonment in a state prison for life ;

2. If the subsequent crime is such that, upon a first conviction, the offender would be punishable by imprisonment for any term less than his natural life, then such person must be sentenced to imprisonment for a term not less than the longest term, nor more than twice the longest term, prescribed upon a first conviction.

3 R. S. 989, §§ 8, 10.

**§ 689. Second offense.** A person who, having been convicted within this state of a misdemeanor, afterwards commits and is convicted of a felony, must be sentenced to imprisonment for the

longest term prescribed for the punishment upon a first conviction for the felony.

3 R. S. 989, § 9.

**690. Habitual criminals.** Where a person is hereafter convicted of a felony, who has been, before that conviction, convicted in this state, of any other crime, or where a person is hereafter convicted of a misdemeanor who has been already five times convicted in this state of a misdemeanor, he may be adjudged by the court, in addition to any other punishment inflicted upon him, to be an habitual criminal.

**§ 691. Person, etc., of habitual criminal.** The person of an habitual criminal shall be at all times subject to the supervision of every judicial magistrate of the county, and of the supervisors and overseers of the poor of the town where the criminal may be found, to the same extent that a minor is subject to the control of his parent or guardian.

**§ 692. Effect of pardon.** The governor may grant a pardon which shall relieve from judgment of habitual criminality as from any other sentence; but upon a subsequent conviction for felony of a person so pardoned, a judgment of habitual criminality may be again pronounced on account of the first conviction, notwithstanding such pardon.

**§ 693. Woman concealing birth of issue.** A woman, who, having been convicted of endeavoring to conceal the still birth of any issue of her body, which, if born alive, would be a bastard, or the death of any such issue under the age of two years, subsequently to such conviction endeavors to conceal any such birth or death, is punishable by imprisonment in a state prison not exceeding five years, and not less than two years.

3 R. S. 972, § 22. See § 296, *ante*.

**§ 694. Imprisonment on two or more convictions.** Where a person is convicted of two or more offenses, before sentence has been pronounced upon him for either offense, the imprisonment, to which he is sentenced upon the second or other subsequent conviction, must commence at the termination of the first or other prior term or terms of imprisonment, to which he is sentenced.

3 R. S. 990, § 11.

**§ 695. Same.** Where a person, under sentence for a felony, afterward commits any other felony, and is thereof convicted and sentenced to another term of imprisonment, the latter term shall not begin until the expiration of all the terms of imprisonment, to which he is already sentenced.

**§ 696. [am'd 1893.] Sentence for life.** When a crime is declared by statute to be punishable by imprisonment for not less than a specified number of years, and no limit of the duration of the imprison-

ment is declared, the court authorized to pronounce judgment upon conviction may, in its discretion, sentence the offender to imprisonment during his natural life, or for any number of years not less than the amount prescribed.

1. When a crime is declared by any of the provisions of this Code to be punishable by imprisonment for not more than a specified number of years, the court authorized to pronounce judgment upon conviction may, in its discretion, sentence the offender to imprisonment for any time less than that prescribed by the provisions of this act.

§ 697. [*am'd 1888.*] **Calculating term.** When a convict is to be sentenced to imprisonment in a state prison or a penitentiary, the court before which the conviction was had must limit the term of the sentence, having reference to the probability of the convict earning a reduction of his term for good behavior, as provided by chapter twenty-one of the laws of eighteen hundred and eighty-six, and assuming that such reduction will be earned, so that the sentence will expire during either of the following months: April, May, June, July, August, September and October. But the provisions of this section shall not apply in the following cases. 1. Where the sentence is to be for the term of one year or less. 2. Where the term of imprisonment for the crime of which the convict was convicted absolutely fixes a single definite period of time. 3. Where a judgment of conviction has been affirmed upon an appeal, and it becomes necessary for the court to impose the same sentence as that originally imposed. The officers of every prison or penitentiary are hereby expressly prohibited from taking into their custody any convict sentenced in violation of the provisions of this section, and any convict so illegally sentenced shall be returned by the sheriff of the county where the conviction was had to the court to be re-sentenced in conformity to the provisions of this section. Provided that if it shall appear to the officers of any prison or penitentiary at the time it is sought to incarcerate a convict therein that the court which imposed the sentence has adjourned, then it shall be lawful for said officers to receive said convict and hold him in their custody until he can be re-sentenced as herein provided, and the second or re-sentence shall be deemed to have begun on the date of the convict's reception under his first sentence. The officers of any prison or penitentiary shall, in the case of a convict so illegally sentenced to imprisonment therein, immediately notify the court of their action.

§ 698. **Imprisonment of female convict.** A female convicted of a felony punishable by imprisonment, must be sentenced to imprisonment in a county penitentiary, instead of a state prison. If there is no penitentiary in the county in which she is convicted, she must be sentenced to imprisonment in the nearest penitentiary.

§ 699. [*am'd 1892.*] **Persons between sixteen and twenty-one years.** Where a person between the ages of sixteen and twenty-one years is convicted of a felony, or where the term of imprisonment of a male convict for a felony is fixed by the trial court at five years or



less, the court may direct the convict to be imprisoned in a county penitentiary, instead of a state prison, if there is a county penitentiary within the judicial department in which the trial is had.

Whenever a child under the age of fourteen years is charged with the perpetration of a crime, other than a capital crime, which, if committed by an adult, would be a felony, the child shall, in the discretion of the court, be tried as for a misdemeanor, and the court, magistrate or tribunal before whom such trial is held, shall impose the penalty as prescribed by law in the case of misdemeanors.

§ 700. [*am'd* 1888.] **Males between 16 and 30 years.** A male between the ages of 16 and 30, convicted of felony, who has not theretofore been convicted of a crime punishable by imprisonment in a state prison, may, in the discretion of the trial court, be sentenced to imprisonment in the New York State Reformatory at Elmira, to be there confined under the provisions of law relating to that reformatory.

§ 701. **House of refuge.** Where a person under the age of sixteen years is convicted of crime, the trial court may, instead of sentencing him to imprisonment in a state prison or in a penitentiary, direct him to be confined in a house of refuge under the provisions of the statute relating thereto. Where the conviction is had and the sentence is inflicted in the first, second, or third judicial district, the place of confinement must be the house of refuge established by the managers of the society for the reformation of juvenile delinquents in the city of New York; where the conviction is had and the sentence inflicted in any other district, the place of confinement must be in the western house of refuge for juvenile delinquents. But nothing in this section shall affect the provision contained in section 713.

§ 702. **Imprisonment in county jail.** Where a person is convicted of a crime, for which the punishment inflicted is imprisonment for a term less than one year, the imprisonment must be inflicted by confinement in the county jail, or place of confinement designated by law to be used as the jail of the county, except when otherwise specially prescribed by statute.

§ 703. **Id.; in county jail or state prison.** Where a person is convicted of a crime, for which the punishment inflicted is imprisonment for a term of one year, he may be sentenced to, and the imprisonment may be inflicted by, confinement either in a county jail, or in a penitentiary or state prison. No person shall be sentenced to imprisonment in a state prison for less than one year.

§ 704. **Id.; in state prison.** Where a person is convicted of a crime, for which the punishment inflicted is imprisonment for a term exceeding one year, or is sentenced to imprisonment for such a term, the imprisonment must be inflicted by confinement at hard labor in a state prison. But this and the two last sections shall not apply to a case where special provision is made by statute as to the punishment for any particular offense or class of offenses of offenders, nor to the cases specified in sections 698, 699, 700 and 701.

**§ 705. Place to be specified in sentence; removal.** The place of the imprisonment must be specified in the judgment and sentence of the court. But convicts may be removed from one place of confinement to another, in a case, and by the authority, designated by statute.

**§ 706. Limit of fine.** Where, in this Code, or in any other statute making any crime punishable by a fine, the amount of the fine is not specified, a fine of not more than five hundred dollars may be imposed.

**§ 707. Forfeiture.** A sentence of imprisonment in a state prison for any term less than for life, forfeits all the public offices, and suspends, during the term of the sentence, all the civil rights, and all private trusts, authority, or powers of, or held by the person sentenced.

3 R. S. 994, § 39.

**§ 708. Consequence of sentence.** A person sentenced to imprisonment for life is thereafter deemed civilly dead.

3 R. S. 994, § 40.

**§ 709. Convict protected by law.** A convict sentenced to imprisonment is under the protection of the law, and any injury to his person, not authorized by law, is punishable in the same manner as if he were not sentenced or convicted.

**§ 710. Certain forfeiture, abolished.** A conviction of a person for any crime does not work a forfeiture of any property, real or personal, or of any right or interest therein. All forfeitures to the people of the state, in the nature of deodands, or in a case of suicide, or where a person flees from justice, are abolished.

**§ 711. Convict voting.** The prohibition to vote at an election, contained in any statute of the state, shall not apply to a person heretofore or hereafter convicted of any crime, who has been sentenced or committed therefor to one of the houses of refuge, or other reformatories organized under the statutes of the state.

**§ 712. Witnesses' testimony.** The sections of this Code which declare that evidence obtained upon the examination of a person as a witness shall not be received against him in a criminal proceeding, do not forbid such evidence being proved against such person upon any charge of perjury committed in such examination.

**§ 713. Sentence of minor.** When a person under the age of sixteen is convicted of a crime, he may in the discretion of the court, instead of being sentenced to fine or imprisonment, be placed in charge of any suitable person or institution willing to receive him, and be thereafter, until majority or for a shorter term, subjected to such discipline and control of the person or institution receiving him as a parent or guardian may lawfully exercise over a minor. A child

under sixteen years of age committed for misdemeanor, under any provision of this Code, must be committed to some reformatory, charitable or other institution authorized by law to receive and take charge of minors. And when any such child is committed to an institution it shall, when practicable, be committed to an institution governed by persons of the same religious faith as the parents of such child.

**§ 714. Convict as witness.** A person heretofore or hereafter convicted of any crime is, notwithstanding, a competent witness, in any cause or proceeding, civil or criminal, but the conviction may be proved for the purpose of affecting the weight of his testimony, either by the record, or by his cross-examination, upon which he must answer any proper question relevant to that inquiry; and the party cross-examining is not concluded by the answer to such question.

**§ 715. Husband and wife as witness.** The husband or wife of a person indicted or accused of a crime is in all cases a competent witness, on the examination or trial of such person; but neither husband nor wife can be compelled to disclose a confidential communication, made by one to the other during their marriage.

**§ 716. Creditor or convict.** A person injured by the commission of a felony, for which the offender is sentenced to imprisonment in a state prison, is deemed the creditor of the offender, and of his estate after his death, within the provisions of the statutes relating thereto.

**§ 717. Damages, how ascertained.** In a case specified in the last section, the damages sustained by the person injured by the felonious act, may be ascertained in an action brought for that purpose by him against the trustees of the estate of the offender, appointed under the provisions of the statutes, or the executor or administrator of the offender's estate.

**§ 717a. [added 1893.] Misrepresentation of Circulation of Newspapers or Periodicals.** Every proprietor or publisher of any newspaper or periodical who shall willfully or knowingly misrepresent the circulation of such newspaper or periodical for the purpose of securing advertising or other patronage, shall be deemed guilty of a misdemeanor.

**§ 718. Construction of forms.** In construing this Code or an indictment or other pleading in a case provided for by this Code, the following rules must be observed, except when a contrary intent is plainly declared in the provision to be construed, or plainly apparent from the context thereof:

1. Each of the terms "neglect," "negligence," "negligent," and "negligently," imports a want of such attention to the nature or

probable consequence of the act or omission as a prudent man ordinarily bestows in acting in his own concerns ;

2. Each of the terms "corrupt" and "corruptly" imports a wrongful desire to acquire, or cause some pecuniary or other advantage to or by the person guilty of the act or omission referred to or some other person ;

3. Each of the terms "malice" and "maliciously" imports an evil intent, or wish or design to vex, annoy, or injure another person, or to maltreat or injure an animal ;

4. The term "knowingly" imports a knowledge that the facts exist which constitute the act or omission a crime, and does not require knowledge of the unlawfulness of the act or omission ;

5. Where an intent to defraud constitutes a part of a crime, it is not necessary to aver or prove an intent to defraud any particular person ;

6. The term "vessel" includes ships, steamers, canal-boats, and every boat or structure adapted to navigation, or movement from place to place by water, either upon the ocean, lakes, rivers, or artificial water ways ;

7. The term "signature" includes any memorandum, mark, or sign, written with intent to authenticate any instrument, or writing, or the subscription of any person thereto ;

8. The term "writing" includes both printing and writing ;

9. The term "property" includes both real and personal property, things in action, money, bank bills, and all articles of value ;

10. The singular number includes the plural and the plural the singular ;

11. A word used in the masculine gender comprehends as well the feminine and neuter ;

12. A word used in the present tense includes the future ;

13. The term "person" includes a corporation or joint association as well as a natural person. When it is used to designate a party whose property may be the subject of any offense, it also includes the state, or any other state, government or country which may lawfully own property within the state ;

14. The term "real property" includes every estate, interest and right in lands, tenements and hereditaments ;

15. The term "personal property" includes every description of money, goods, chattels, effects, evidences of rights in action, and all written instruments by which any pecuniary obligation, right or title to property, real or personal, is created, acknowledged, transferred, increased, defeated, discharged or diminished, and every right and interest therein ;

16. The terms "reputed houses of prostitution or assignation," "house of prostitution," "house of ill-fame or assignation," "dis-

orderly house," include all premises which by common fame or report are used for the purposes of prostitution or assignation.

**§ 719. Application of this Code to prior offenses.** Nothing contained in any provision of this Code applies to an offense committed or other act done, at any time before the day when this Code takes effect. Such an offense must be punished according to, and such act must be governed by, the provisions of law existing when it is done or committed, in the same manner as if this Code had not been passed; except that, whenever the punishment or penalty for an offense is mitigated by any provision of this Code, such provision may be applied to any sentence or judgment imposed for the offense after this Code takes effect. An offense specified in this Code, committed after the beginning of the day when this Code takes effect, must be punished according to the provisions of this Code, and not otherwise.

**§ 720. Same.** The provisions of this Code are not to be deemed to affect any civil rights or remedies existing at the time when this Code takes effect, by virtue of the common law or of any provision of statute.

**§ 721. Intent to defraud.** Whenever, by any of the provisions of this Code, an intent to defraud is required, in order to constitute an offense, it is sufficient if an intent appears to defraud any person, association or body politic or corporate, whatever.

3 R. S. 995, § 58.

**§ 722. Civil remedies, preserved.** The omission to specify or affirm in this Code any liability to any damages, penalty, forfeiture or other remedy, imposed by law, and allowed to be recovered or enforced in any civil action or proceeding, for any act or omission declared punishable herein, does not affect any right to recover or enforce the same.

**§ 723. Proceedings to impeach, etc., preserved.** The omission to specify or affirm in this Code any ground or forfeiture of a public office or other trust or special authority conferred by law, or any power conferred by law to impeach, remove, depose or suspend any public officer or other person holding any trust, appointment or other special authority conferred by law, does not affect such forfeiture or power, or any proceeding authorized by law to carry into effect such impeachment, removal, deposition or suspension.

**§ 724. Military punishments, etc., preserved.** This Code does not affect any power conferred by law upon any court-martial or other military authority or officer, to impose or inflict punishment

upon offenders; nor any power conferred by law upon any public body, tribunal or officers, to impose or inflict punishment for a contempt; nor any provisions of the laws relating to apprentices, bastards, disorderly persons, Indians and vagrants, except so far as any provisions therein are inconsistent with this Code.

**§ 725. Certain statutes continuing in force.** Nothing in this Code affects any of the provisions of the following statutes; but such statutes are recognized as continuing in force, notwithstanding the provisions of this Code; except so far as they have been repealed or affected by subsequent laws;

1. All acts incorporating municipal corporations, and acts amending acts of incorporation or charters of such corporation, or providing for the election or appointment of officers therein, or defining the powers and duties of such officers;

2. All acts relating to emigrants or other passengers in vessels coming from foreign countries, except as provided in section 626 of this Code;

3. All acts for the punishment of intoxication or the suppression of intemperance, or regulating the sale or disposition of intoxicating or spirituous liquors;

4. All acts defining and providing for the punishment of offenses, and not defined and made punishable by this Code.

**§ 726. General repeal.** All acts and parts of acts which are inconsistent with the provisions of this act are repealed, so far as they impose any punishment for crime, except as herein provided.

**§ 727. When act to take effect.** This act shall take effect on the first day of December, eighteen hundred and eighty-two. When construed in connection with other statutes, it must be deemed to have been enacted on the fourth day of January, eighteen hundred and eighty-one; so that any statute enacted after that day is to have the same effect as if it had been enacted after this Code.

**§ 728. Repeal of provisions must be express.** No provision of this Code, or any part thereof, shall be deemed repealed, altered or amended by the passage of any subsequent statute inconsistent therewith, unless such statute shall explicitly refer thereto and directly repeal, alter or amend this Code accordingly.



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